

**SCHOOL FINANCE REFORM LITIGATION: A REVIEW AND ANALYSIS OF HIGH COURT CASES**

By

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Chairperson

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SCHOOL FINANCE REFORM LITIGATION: AN HISTORICAL REVIEW AND ANALYSIS  
OF HIGH COURT CASES

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Chairperson

Date approved: \_\_\_\_\_

## **ABSTRACT**

School finance litigation has been intended to serve many purposes over the past forty years, including seeking equity and adequacy in school funding. Historically, school finance litigation has been categorized using the three waves categorization which focuses on legal standards used and outcome trends. This project re-categorizes school finance litigation using two sets of criteria, legal standard and school finance concept. The legal standards used in the categorization are state equal protection clause, federal equal protection clause, and state education clause. The financial concepts used in the categorization are horizontal equity, pure vertical equity, vertical equity as adequacy, and pure adequacy. The project provides answers to the following questions via a process of briefing school finance cases that reached a state high court or the United States Supreme Court, and categorizing the cases based on legal standard, financial concept, and if the decision was in favor of school finance reform or against such reform.

### Research Questions:

1. What is the history of education finance reform litigation at the high state courts and U.S. Supreme Court levels with regard to the choice of finance concept being applied (horizontal equity, pure vertical equity, vertical equity as adequacy, or adequacy)?
2. Which legal standard was used historically in education reform litigation for each case and how does that connect with finance concept being applied?
3. Which party was successful in each legal decision?
4. Is there historically a most successful combination of finance concept and legal standard for plaintiff success in education finance reform litigation
5. Is there an emerging trend regarding school finance litigation?

The main findings of the study indicate that the most frequently utilized finance concept was that of Horizontal Equity with Vertical Equity as Adequacy following with nearly as many instances of use as Horizontal Equity. Regarding the second research question, the study found that the State Education Clause was by far the most frequently used legal standard historically for school finance litigation cases. The most successful combinations of school finance concept and legal standard were the combination of the State Education Clause and Vertical Equity as Adequacy and the combination of the State Education Clause and Adequacy. The final research question addresses emerging trends in school finance litigation. A historical trend exists toward the use of adequacy as a standard paired with the used of State Education Clauses.

## **Dedication**

This project is dedicated to my husband, Lee, and our amazing son, Nelson.

Lee, the love and support you have provided in my pursuit of this degree has been the strength I needed to finish. Tuesday night class, added to weekly supervision responsibilities, meant one more night away from home each week, and yet you pushed me to continue. When I was tired and frustrated, you listened, commiserated, and then encouraged me to give KU just a few more hours each week. As those “few more hours” accumulated over the years, I finished. Thank you for the way you love me and for being a wonderful husband and father. I love you.

Nelson, you arrived in the middle of my doctoral journey, and yet you are the reason I worked so hard to finish. The joy you bring to me is so immense that words cannot capture the sentiment completely. The times I was at my office working on this project, I longed to be playing with you, but I hope the end product is something of which you will be proud. Be inspired by this work to pursue excellence and to treasure education, both formal and informal, as you grow. I am excited to share in your journey of exploring and learning as you grow up faster than I could ever have imagined. I love you.

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To my professional mentor and friend, John, thank you for pushing me and encouraging me. The opportunity to learn educational leadership working with you far exceeded anything learned in my formal program. Your frequent inquiries regarding, "How many cases have you finished?" helped push me through to the end.

Thank you to the administrators I worked with at LSHS for rearranging supervision schedules weekly so I could be free to attend class, and thank you to my cohort members for making those classes fun; it was a joy spending each Tuesday night with you.

I would like to acknowledge Susan Hitman, one of the best teachers I know, for her keen edits of this project.

My final thank you is for the people who started me on my academic journey thirty years ago when they brought me to kindergarten. To my parents, thank you for instilling in me that it is worth working hard to achieve what is important to you and for encouraging me to seek academic excellence from kindergarten forward. I love you.

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## Chapter One--Introduction

Public schooling in America has long been viewed as the great equalizer, allowing any student to use his education to raise himself up to the socioeconomic level of his choosing. While it is clear that there are many factors preventing that adage from being accurate, the most significant barrier is found in the idea of educational inputs. Each student brings with him to the public school system a set of individual past experiences and future needs. Additionally, each school district receives funding at various levels, creating a vast discrepancy in educational inputs available to students. Such discrepancies are primarily a result of state funding formulas and the impact they have on various localities' funding capabilities.

The impact of state funding formulas has resulted in various legal attempts to change state funding formulas to better meet the needs of certain districts/constituents within the states. To date there have been seventy-six education finance reform cases which have reached a state-level high court or the U.S. Supreme Court, yielding various court opinions and outcomes. Such legal action historically has been framed within the concept of three waves of litigation. The first wave of education finance litigation was based on claims that funding formulas were unconstitutional as they were written based on interpretation of the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. This wave is historically considered to have lasted from 1971 to 1973. While wave one included various cases, one significant case is cited as the example of that era of litigation, *Serrano v. Priest* (5 Cal.3d 584). Wave one is traditionally cited as having ended with the U.S. Supreme Court decision in *San Antonio Independent School District v. Rodriguez* (411 U.S.1). Wave two is traditionally associated with cases based on the equal protection clauses of state constitutions and lasted from 1973 through

1989. The third wave of litigation runs from 1989 to the current litigation and is primarily categorized by a shift in the number of plaintiff victories in such cases; 1989 saw three states, Montana (*Helena Elementary School District No. 1 v. Montana* (769 p.2d 684)), Kentucky (*Rose v. Council for Better Education, Inc.* (790 S.W.2d 186)), and Texas (*Edgewood Independent School District v. Kirby--Edgewood I* (777 S.W. 2d 391)), lose court cases regarding their state education funding formulas. Throughout wave three, the primary focus has been on the use of state education clauses as the standard for making a claim (Lukemeyer, 1999).

The concept of educational finance litigation fitting easily into three distinct waves, each distinct in its criteria, is a user-friendly approach to understanding this legal history; however, the waves approach oversimplifies the concepts of standards used for educational finance litigation. Within each of the three waves, there are significant state level cases that do not fit neatly within the standards set for the wave in which it sits chronologically. Therefore, a more appropriate approach to a historical review of such litigation is to classify the cases based on two factors: the legal standard being used to claim a violation has occurred and a determination if the case was decided based on horizontal equity, pure vertical equity, vertical equity as adequacy, adequacy, or a combination of various factors.

This study is a historical meta-analysis of case law relating to educational finance reform and will serve as a comprehensive index of relevant case briefs. Additionally, this study addresses the following five research questions:

1. What is the history of education finance reform litigation at the high state courts and U.S. Supreme Court levels with regard to the choice of the finance concept being applied (horizontal equity, pure vertical equity, vertical equity as adequacy, or adequacy)?



2. Which legal standard was used historically in education reform litigation for each case and how does that connect with finance concept being applied?
3. Which party was successful in each legal decision?
4. Is there historically a most successful combination of finance concept and legal standard for plaintiff success in education finance reform litigation?
5. Is there an emerging trend regarding school finance litigation?

The specific process for the dissertation involved the following steps:

**Selection of Education Finance Concepts to Consider:**

In their work, “Conceptions of Equity and Adequacy in School Finance,” Baker and Green outline clear definitions of each education finance concept. Baker and Green’s definitions were developed as an outgrowth of the framework originally created by Berne and Stiefel (Berne & Stiefel, 1984) in which they address the questions of Who? What? How? and How Much? with regard to school finance policy (Baker & Green, 2008). Baker and Green attach their definitions of the finance concepts to Berne and Stiefel’s question of How?, answering the question with categories in which various funding solutions can be included (Baker & Green, 2008). Baker and Green’s definitions will be the functional definitions of the education finance concepts used within this dissertation to categorize the significant case law.

*Horizontal Equity* asks the question, “Are there differences in resources unrelated to educational need?” The fundamental concept of horizontal equity is connected to the idea of equal protection as it is offered to students through state constitutions.

*Pure Vertical Equity* addresses the question, “Are there sufficient differences in resources to accommodate educational need, measured against equity of outcomes standard?” The concept of pure vertical equity addresses outcome standards; does each child, regardless of his/her need, have the inputs necessary to reach the same outcome standard? It is significant to note that using a pure vertical equity standard, the only requirement is “sameness” without regard to the level that “sameness” is reached; vertical equity might mean all students reach a level far above or far below what would be considered adequate.

*Vertical Equity as Adequacy* asks, “Do all groups of children have sufficient resources to support equal opportunity to achieve minimum outcome standards?” Like the concept of pure vertical equity, this standard is outcomes-based. However, unlike the previous standard, vertical equity as adequacy requires that students of differentiated need levels and skill levels reach a minimum standard defined as adequate. Practically, this standard means that students who need more educational inputs to reach an adequate outcome standard must be provided with those additional resources to meet their needs.

*Adequacy* as a standard examines the question, “Is aggregate funding sufficient for children to achieve minimum outcome standards?” This standard is a more systemic look at school finance in that it addresses if the funding formula at the state level is fundamentally adequate regarding inputs for the majority of the state’s students to reach adequate outcomes. This standard answers the question, “Is the state spending enough on education to meet its students’ needs?”

### **Selection of Relevant Cases**

This study included a review of the major cases heard by the states' high courts or the U.S. Supreme Court regarding education finance. In "A Guide to State Court Decisions on Education Finance" found in the text Helping Children Left Behind (Yinger, ed. 2004), Huang, Lukemeyer, & Yinger provide a comprehensive listing of court cases through June of 2003, a list generated in large part via Lukemeyer's research for her dissertation entitled "Education Finance Equity: Judicial Treatment of Key Issues and Impact of That Treatment on Reform" (1999). Lukemeyer's criteria for inclusion on her list was that the cases be either decisions by the state's highest court or that the cases were a state's most recent decision and varied significantly from the state's latest high court decision (Yinger, ed. 2004). For the purposes of this study, Lukemeyer's list of court cases was narrowed to include only those that involve a state high court or the U.S. Supreme Court. Additionally, WestLaw and LexisNexis were utilized, alongside secondary sources such as judicial advocacy websites that monitor current and upcoming litigation, to create a list that includes appropriate litigation since the 2003 publication of Huang, Lukemeyer, & Yinger's list. The criteria for addition of cases to Lukemeyer's original list were that the case be one in which a challenge to educational funding was being made and in which the case reached the state high court. The primary source for monitoring cases was the website managed by the National Access Network, an organization that monitors school funding issues and litigation nationwide. Once referenced by the National Access Network, cases were searched for using Lexis Nexis and WestLaw and the determination was made if they met the established criteria for inclusion in this study.

## **Case Briefing**

Each case from the created list was formally briefed using the following format:

- Case Title:
- Full Citation:
- State:
- Court:
- Decision Date:
- Plaintiff Claims:
- Decision:
- Reasoning:
- Legal Standard Used in Decision:
- Financial Concept Used in Decision:

The middle chapter of this publication serves as a comprehensive collection of these school finance reform litigation briefs.

## **Categorization of Cases**

Each case decision was reviewed for categorization in three manners. The first categorization was to determine if plaintiffs used Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, the Equal Protection Clause of a state constitution, or an Education Clause within a state constitution. The second classification was a determination if language in the legal decision suggests the case had been decided as horizontal equity, pure vertical equity, vertical equity as adequacy, or adequacy as defined by Baker & Green. The final analysis was a determination if the decision is pro or anti-school finance reform. The evaluation regarding pro-school reform or anti-school reform status was made by determining if the decision would require legislature to revise the distribution of funds to provide an increase in funding for certain, or all, districts; or if the decisions resulted in a mandate for greater equity or adequacy in fund distribution. If any of those criteria was met, the case was categorized as being pro-school finance reform.

## **Analysis/Conclusion**

After briefing and categorizing each case, the analysis with regard to the proposed questions occurred through a review of charts inclusive of the data to best answer the first four research questions:

1. What is the history of education finance reform litigation at the high state courts and U.S. Supreme Court levels with regards to the choice of finance concept being applied (horizontal equity, pure vertical equity, vertical equity as adequacy, or adequacy)?
2. Which legal standard was used historically in education reform litigation for each case and how does that connect with the finance concept being applied?
3. Which party was successful in each legal decision?
4. Is there historically a most successful combination of finance concept and legal standard for plaintiff success in education finance reform litigation?

The fifth research question *Is there an emerging trend regarding school finance litigation?* will be answered by focusing the analysis more specifically on the cases within the last year, as well as any pending cases.

The complexities created as a result of education funding, involving state budgets managed by legislators, serving various districts being managed at the local level that have numerous available inputs to meet a variety of student needs, resulting in various levels of outputs, make it likely that school finance litigation will remain an active legal trend. By creating a complete picture of the legal history of the issue, as well as an analysis of any upcoming trends in this area

of law, this dissertation will serve as a valuable contribution to the field of education, specifically the field of school finance reform litigation.

The significance of this study is that it will provide a more sophisticated review of school finance litigation than a chronological review of cases provides. Future litigation considerations can include consideration of the findings of this study. Additionally, this study will provide information regarding history of school finance with a two-sided view, legal and financial, for educators and legislatures to review when they consider what is the most appropriate form of funding schools, and, specifically, what the historical impact of various court challenges has been on that discussion.

## **Chapter Two—Literature Review**

Before considering school finance cases within the framework provided by Baker and Green, it is appropriate to review the most prominent issues within the literature regarding school finance reform litigation. Such research is well categorized by reviewing the literature against the framework of four categories: history and underlying theories, the recent use of adequacy standards, the courts' role in such decision making, and the educational impact of such litigation. The four categories of review provide a sequential look at history, current trends, and educational impact of school finance litigation.

### **History and Underlying Theories**

In her text Courts as Policymakers: School Finance Reform Litigation (2003), Lukemeyer provides an excellent review of the history of school finance litigation. Lukemeyer cites Levine (1991) and Thro (1990) as the legal scholars who originally categorized the litigation into the three waves (Lukemeyer, 2003). Lukemeyer outlines wave one as being primarily “plaintiffs bringing equal protection clause claim(s) contend(ing) that a government action or law discriminates unfairly against them” (Lukemeyer, 2003, p. 3). She moves on to describe wave two cases as being those in which “plaintiffs concentrated on state constitutional claims,” primarily state equal protection claims (Lukemeyer, 2003, p.5). The final wave is outlined by Lukemeyer as having “relied primarily on education, rather than equal protection clauses” (Lukemeyer, 2003, p 6). Lukemeyer briefly notes that McMillian (1998) suggested that a fourth wave exists in which justiciability becomes the question and in which McMillian claims a combination of school finance and ethnic discrimination exists within the claims (Lukemeyer, 2003).

The history of school finance reform is also reviewed in a different context by Adams in his article entitled “Is Economic Integration the Fourth Wave in School Finance Litigation?” (Adams, 2007). Adams suggests that the first trend to consider in the history of school finance reform is not a finance case at all, but instead a case focused on desegregation. Adams cites *Brown v. Board of Education* as the starting point for legal discussions regarding equity and adequacy in public schooling (Adams, 2007). Adams extends his contention from *Brown v. Board of Education* to *Milliken v. Bradley* (Milliken I) in which the Court ruled that suburban districts could not be required to integrate with urban districts in order to provide racial balance unless they caused the segregation in the urban district. Adams contends that it was this decision that played a significant role in urban plaintiffs shifting their attention to school funding litigation (Adams, 2007). Adams proceeds to review the school finance litigation using the framework of the three waves, similar to Lukemeyer’s analysis.

In their journal article, “When Adequate Isn’t: The Retreat from Equity in Educational Law and Policy and Why it Matters,” Koski and Reich claim that the three waves can be examined more specifically by seeing each wave as a step away from equity contentions and toward adequacy contentions, which they contend is ethically and socially problematic (Koski & Reich, 2007). Koski and Reich frame wave one plaintiffs’ claims to be “premised on the theoretical claim that the revenues of a school district should not be based on the wealth of the people or property within the district” (Koski & Reich, 2007, p.9). They categorize wave two claims as having “primarily sought to achieve either horizontal equity among school districts such that per pupil revenues were roughly equalized by the state or at least fiscal neutrality such that revenues available to a school district would not be solely dependent on the property wealth of the school district” (Koski & Reich, 2007, p. 10). Finally, Koski and Reich view wave three as representing



the final shift from equity to adequacy; in part Koski and Reich contend because education articles tend to lend themselves to adequacy claims, but also because on *prima facie* value adequacy “appears to enjoy a clarity that educational opportunity lacks” (Koski & Reich 2007, p.13).

In her article, “Judicial Analysis During the New Wave of School Finance Litigation: The New Adequacy in Education,”. Verstegen makes a claim similar to Koski and Reich’s that the most recent wave of school finance litigation is grounded in adequacy (Verstegen , 1998). Verstegen extends this claim to suggest that the third wave of litigation based on adequacy can be defined by courts either choosing an “antiquated definition of adequacy,” in which if all students had access to a minimum, basic education, the standard was met, or by choosing an adequacy definition that is “in light of the times” in which “adequacy is defined in the context of the information and global economy” and “a minimum or basic education is found to be insufficient” (Verstegen, 2007, p.3).

While various researchers have attached trends to each wave, it is clear that historically the framework for reviewing school finance litigation cases has been the “wave” theory, watching each wave shift the approach to school finance litigation with the most recent analysis being primarily one of adequacy.

### **The Recent Use of Adequacy Standards**

With a clear historical shift from equity to adequacy, the focus becomes defining adequacy as well as determining if it remains to most appropriate standard to utilize. In their article “Forward to School Finance Symposium,” Ryan and Saunders effectively connect the onset of the adequacy movement within the waves of school finance litigation and the arrival of the

standards movement in education (Ryan & Saunders, 2004). Perhaps the largest obstacle to an adequacy argument is in defining a level of adequacy. Ryan and Saunders cite the Director-Counsel of the NAACP Legal Defense's 1987 observation that the standards movement was "an affirmative opportunity to define a right to a minimally adequate education" (Ryan & Saunders, 2004, p.473). Additionally, they cite Liebman's argument that "by enacting specific and universally applicable minimum standards, state legislators have made the hard policy decisions, leaving the courts with an enforcement role that conforms to traditional visions of the judicial function" (Ryan & Saunders, 2004, p. 473).

Koski and Reich have categorized judicial treatment of an adequacy standard in "three types of non-mutually-exclusive standards for adequacy: (1) those that articulate a vague and broad qualitative standard aimed at furthering the state's interest in producing civic-minded and economically productive students, but provide little guidance to policy-makers, (2) those that identify specific, though abstract, capacities and skills that all children should receive from public education to serve both the state's and the student's individual interest and then order the legislature to provide the resources that would permit children to obtain those capacities and resources, and (3) those that tie adequacy to state educational content standards which define with a high degree of specificity what all children should know and be able to do (Koski & Reich, 2007). In a more general synopsis, Underwood and Sparkman explain that the shift to adequacy has "changed the focus of finance equity litigation from per pupil expenditure to the broader concept of meeting students' educational needs. This in turn has shifted attention in such cases from mechanical funding formulae to the product of education" (Underwood and Sparkman, 1991, p. 543).

From a different research perspective, Hanushek (2006) presents a concern with a fourth means for determining adequacy, that of “costing out” an adequate education. Perhaps the most significant judicial decision regarding “costing out” an adequate education was in the Campaign for Fiscal Equality (CFE) cases in New York beginning in 1995. Rebell outlines what he calls “a powerful 3-part remedial order” by the court in the CFE cases. The courts mandated the state to (1) determine the actual cost of providing a sound basic education; (2) reform the current funding system to ensure that the resources necessary to provide a sound basic education are available in every school; and (3) provide a system of accountability to ensure that the reforms actually do provide all students the opportunity for a sound basic education (Rebell, 2005). Hanushek (2006) takes issue with decisions such as the CFE decision, asserting that there is a “difficulty of defining ‘adequate’ in an operational way that can be a court enforceable standard. Specifically, all available evidence indicates that translating an adequacy standard into a funding standard seriously distorts reality to the point where actual harm is possible” (Hanushek, 2006, p. xviii). He moves on to claim that costing out studies similar to those used in Kansas and New York are wound up in politics, are not reproducible science, and do not ensure outcomes (Hanushek, 2006). Adams addresses the issue of “costing out” by asserting that while costing out has its limitations, “by attempting to quantify the cost of an adequate education, costing out represents an important step. The results of these studies pressure legislatures to increase funding for an affirmative right” (Adams, 2007, p. 6). Baker and Green acknowledge the difficulty in making “costing out” a science, but contend it is much more effective than allowing courts or legislatures to make arbitrary decisions regarding such standards. They summarize well by stating that truly identifying a cost for educational adequacy is “more art than science” (Baker & Green, 2008).

## **Justiciability**

While the value of the “costing out” studies is debated by two camps of researchers, it is made clear by both camps that such efforts have been a means for Courts to help distinguish judicial and legislative roles in school finance litigation. One question addressed by many courts in their decisions regarding school finance is exactly where the responsibility of a state legislature ends and that of the judicial branch begins. The question of justiciability of certain school finance cases is a recurring theme throughout many of the decisions. Ralston Elder (2007) explains that state constitutions provide “positive rights” which gives the courts a right to be more involved because it is their duty to “ensure that the government is doing their job” regarding constitutional rights and obligations for the people of the state (Elder, 2007, p. 3). While justiciability is considered as each court rules on a decision, and while it is not without controversy, there appears to be a legal standard for courts to intervene in school funding decisions on behalf of plaintiffs who have rights guaranteed by the state constitutions.

## **Educational Impact of School Finance Litigation**

The ultimate question as it relates to school finance litigation is if such litigation makes a difference in the education of the children of any given state. Heise summarizes the debate well by asserting that, “A consensus does not yet exist within the social science community about the specific relation between educational spending and equal educational opportunity. It is unclear whether additional resources lead to additional student achievement” (Heise, 1995, p. 1166). It is precisely that debate that creates controversy as courts are put in a position to determine a level of adequacy regarding funding while considering adequacy in outcomes as well. Glenn (2009) conducted a research study addressing the issue of litigation’s effect on student

achievement using achievement data from the Early Childhood Longitudinal Study Kindergarten Cohort. Glenn's study found that adequacy litigation in which plaintiffs prevailed had a positive relationship with achievement tests scores from students with low socio-economic backgrounds, although with a small effect size. Glenn concludes that adequacy litigation can play a role in a comprehensive education reform, but that it cannot be expected to "be a panacea for public-school reform" (Glenn, 2009, p. 263). . Burbridge's (2008) research supports the idea that it is comprehensive school reform that may have the effect on student achievement, not merely increase per pupil expenditures. Burbridge's study examined student achievement in states with recent adequacy-based reform, with close attention to Kentucky, as they relate to student performance on the National Assessment of Educational Progress (NAEP). Burbridge's conclusions were like Glenn's in that student achievement appears to be affected by adequacy-based reform, but cannot be directly tied to a specified level of funding (Burbridge, 2008). In general, it appears that the literature indicates that reform toward equity and adequacy can be significant to some degree.

### **Chapter Three—Case Briefs**

Chapter three includes the case-by-case criterion-based analysis of each case. Seventy-six case briefs are provided in this chapter in alphabetical order, and listed in Table 1.0.

Each case was briefed using the following format.

- Case Title:
- Full Citation:
- State:
- Court:
- Decision Date:
- Plaintiff Claims:
- Decision:
- Reasoning:
- Legal Standard Used in Decision:
- Financial Concept Used in Decision:

The last two sections of each brief, Legal Standard Used in Decision and Financial Concept Used in Decision, provide the preliminary answers to research questions number one and number two.

The preliminary answers to the third research question are found with the section of each brief.

Table 1.0 Listing of Cases Included in Analysis			
Case Title	State	Decision Date	Page Number
Abbeville v. State (335 S.C. 58)	South Carolina	1999	21
Abbott v. Burke I-XX (	New Jersey	1985-2009	23
Board of Education of Cincinnati v. Walter (58 Ohio St. 368)	Ohio	1979	27
Brigham v. State (166 Vt. 246)	Vermont	1997	29
Buse v. Smith (74 Wis. 2d 550)	Wisconsin	1976	31
Campbell v. State I (907 P.2d 1238)	Wyoming	1995	33
CFE v. State (719 N.Y.S.2d 475)	New York	2001	36
Claremont School District v. Governor (138 N.H. 183)— Claremont I	New Hampshire	1992	41
Claremont School District v. Governor (142 N.H. 462)— Claremont II	New Hampshire	1997	43
Coalition for Adequacy and Fairness in School Funding, Inc. v. Chiles( 680 So.2d 400)	Florida	1996	45
Columbia Falls Elementary School District No. 6 v. Montana (109P.3d 257)	Montana	2005	48
Committee for Educational Equality v. State (878 S.W.2d 446)	Missouri	2009	50
Committee for Educational Rights v. Edgar (174 Ill.2d 1)	Illinois	1996	53
Connecticut Coalition for Justice in Education Funding v. Rell	Connecticut	2010	55
DeRolph v. State (78 Ohio St.3d 193)	Ohio	1997	57

Dupree v. Alma (279 Ark. 340)	Arkansas	1983	59
Durant v. State of Michigan (456 Mich. 175)	Michigan	1997	61
Edgewood Independent School District v. Kirby--Edgewood I (777 S.W. 2d 391)	Texas	1989	64
Edgewood Independent School District v. Kirby--Edgewood II (804 S.W. 2d 491)	Texas	1991	66
Edgewood Independent School District v. Kirby--Edgewood III (826 S.W. 2d 489)	Texas	1992	68
Edgewood Independent School District v. Kirby--Edgewood IV (917 S.W. 2d 717)	Texas	1995	70
Fair School Finance Council of Oklahoma, Inc. v. State (746 P.2d 1135)	Oklahoma	1987	73
Helena Elementary School District No. 1 v. Montana (769 p.2d 684)	Montana	1989	75
Horton v. Meskil (172 Conn. 615)--Horton I	Connecticut	1977	77
Horton v. Meskil (195 Conn. 24)--Horton II	Connecticut	1985	79
Hull v. Albrecht (190 Ariz. 520)	Arizona	1997	81
Kukor v. Grover (148 Wis.2d 469)	Wisconsin	1989	83
Lake View School District No. 25 of Phillips County v. Huckabee (351 Ark 31)	Arkansas	2002	86
Leandro v. State (346 N.C. 336)	North Carolina	1997	90
Levittown Union Free School District v. Nyquist ( 57 N.Y. 2d 27)	New York	1982	95
Lewis v. Spagnolo (710 N.E. 2d 798)	Illinois	1999	97
Londonderry v. State (958 A. 2d 930)	New Hampshire	2006	101



Lujan v. Colorado State Board of Education (649 P.2d 1005)	Colorado	1982	103
McDaniel v. Thomas (248 Ga. 632)	Georgia	1981	106
McDuffy v. Secretary of Executive Office of Education (615 N.E.2d 516)	Massachusetts	1993	108
Milliken v. Green (212 N.W.2d 711)	Michigan	1973	110
Montoy v. State (62 P.3d 228)	Kansas	2003	112
Nebraska Coalition for Education Equity and Adequacy v. Heineman (731 N.W.2d 164)	Nebraska	2007	115
Oklahoma Education Association v. State (158 P.3d 1058)	Oklahoma	2007	117
Olsen v. State	Oregon	1976	119
Opinion of the Justices (145 N.H. 474)	New Hampshire	2000	121
Pauley v. Kelly (255 S.E.2d 859)	West Virginia	1979	123
Pendelton School District v. State (345 Or. 596)	Oregon	2009	126
Robinson v Cahill I (62 N.J. 473)	New Jersey	1973	129
Roosevelt Elementary School District No. 66 v. Bishop (179 Ariz. 233)	Arizona	1994	132
Rose v. Council for Better Education, Inc. (790 S.W.2d 186)	Kentucky	1989	134
San Antonio v. Rodriguez (411 U.S.1)	Texas	1973	139
School Administrative District No. 1 v. Commissioner (659 A.2d 854)	Maine	1995	141
Seattle School District No 1 v. Washington (90 Wash. 2d 476)	Washington	1978	143

Serrano v. Priest (487 P.2d 1241)-- Serrano I	California	1971	145
Serrano v. Priest (557 P.2d 929)-- Serrano II	California	1976	147
Skeen v. State	Minnesota	1993	149
State v. Campbell County School District (19 P.3d 518) --Campbell II	Wyoming	2001	151
Tennessee Small School Systems, Inc. v. McWhertner	Tennessee	1993	153
Unified School District No. 229 v. State of Kansas (885 P.2d 1170)	Kansas	1994	155
Washakie School District v. Herschler (606 P.2d 310)	Wyoming	1980	158
West Orange-Cove Consolidated Independent School District v. Alanis (78 S.S. 3d 529)	Texas	2002	161

**Case Title:** *Abbeville v. State* (335 S.C. 58)

**Full Citation:**

Supreme Court of South Carolina  
ABBEVILLE COUNTY SCHOOL DISTRICT, et al., Appellants  
v.

the STATE of South Carolina; David M. Beasley, as Governor of the State of South Carolina; Nikki Setzler, as Chairman of the Senate Education Committee and Chairman of the Education Subcommittee of the Senate Finance Committee, in his representation capacity as a properly designated representative of the South Carolina Senate; David H. Wilkins, as Speaker of the House of Representatives and as representatives of the South Carolina House of Representatives; Barbara S. Nielsen as State Superintendent of Education and as representative of the State Department of Education; and Celia Gettys, as Chairman of the South Carolina State Board of Education, respondents.

**State:** South Carolina

**Court:** Supreme Court of South Carolina

**Decision Date:** April 22, 1999

**Plaintiff Claims:**

The plaintiffs were a group of less wealthy school districts and representatives from the various districts. The plaintiffs contended that the State's school funding system violated the State Constitution's Education Clause (Article XI), the state and federal equal protection clauses and the Education Finance Act (EFA) in South Carolina code.

- The funding of schools at the time was through the EFA as well as through the Education Improvement Act (EIA). The EFA uses a wealth-sensitive formula which results in appellants receiving proportionately more state money than wealthier districts. The EIA distributes funds evenly without regard to wealth. In earlier challenges, specifically *Richland County v. Campbell* (294 S.C. 346) the Court denied challenges to these funding mechanisms.
- The challenge in this appeal is to the State's funding system as a whole, with the primary contention being that the system is underfunded as a whole resulting in a violation of the state education clause and that the EIA creates a equal protection violation because it does not factor in wealth.
- The plaintiffs do not desire "equal" funding because they already receive more than wealthier districts. The contention is that the funding system results in an inadequate education.

**Decision:**

The Court ruled that there was no Equal Protection violation, but the state Education Clause had been violated. The Court further defined the language within the State Education Clause and issued a remand accordingly.

**Reasoning:****Regarding Equal Protection:**

- The Court cited its decision in *Richland County v. Campbell* (294 S.C. 346) as well as *San Antonio v. Rodriguez* (411 U.S.1) in determining that there is no equal protection violation.

**Regarding the State Education Clause:**

- Article XI, Section 3 reads that citizens are entitled a “system of free public schools and other public institutions.”
- The Court ruled that the lower Court erred in determining that finding the meaning of that constitutional phrase was not the judicial branch’s responsibility.
- The Court ruled that the education clause guarantees that each child has an opportunity to receive a “minimally adequate education.”
- The Court defined “minimally adequate to include providing students adequate and safe facilities in which they can have the opportunity to acquire: 1) the ability to read, write, and speak the English language, and knowledge of math and physical science; 2) a fundamental knowledge of economic, social, and political systems, and of history and governmental processes; and 3) academic and vocational skills.”

**Legal Standard Used in Decision:**

This decision was ultimately based only on the State Education Clause.

**Financial Concept Used in Decision:**

This was an Adequacy question because the question at hand after the equal protection claims were dismissed was if enough funding existed within the system to adequately fund schooling across the state.

**Case Title:** *Abbott v. Burke I* (100 N.J. 269)

**State:** New Jersey

**Court:** New Jersey Supreme Court

**Abbott I (1985) (100 N.J. 269):**

The Education Law Center files the case on behalf of urban New Jersey school children. The claim was that the 1975 Public School Education Act was unconstitutional because it was inadequate to provide a “thorough and efficient” education as mandated by the State Constitution education clause. The Supreme Courts issued a remand stating that the State must assure that urban and suburban peers receive educations that allow them to compete with one another equally.

**Abbott II (June 1990) (119 N.J. 287):**

The NJ Supreme Court rules that a “thorough and efficient” education requires that the State equalize funding between suburban and urban districts. Additionally, the Abbott II ruling mandated that programs be created to eliminate or reduce the disadvantages felt by children in urban districts. The ruling was that the existing funding system was unconstitutional.

**Abbott III (July 1994) (136 N.J. 444):**

This case was filed in response to the Governor’s response to Abbott II. Governor Florio brought forward the Quality Education Act just prior to the Abbott II decision and amended it just after Abbott II to include a property tax relief measure. Plaintiffs in Abbott III contended that the Quality Education Act did not comply with the mandate of the Abbott II ruling. The NJ Supreme Court ruled in favor of the plaintiffs, stating that the Act did not equalize funding or provide the mandated supplemental programs. The state had until 1997 to comply.

**Abbott IV (May 1997) (149N.J. 145):**

This case was filed in response to the Governor signing the Comprehensive Education Improvement and Financing Act (CEIFA) in which suburban districts could continue spending at their current rates, but putting spending limits on urban districts. The urban spending limits were \$1200 below the average suburban spending. The NJ Supreme Court ruled that CEIFA was unconstitutional and mandated an immediate increase in funding for schools.

**Abbott V (May 1998) (153 N.J. 480):**

The case was a result of many hearings regarding the types of supplemental programs that would indeed be impactful for urban children. The NJ Supreme Court mandates certain entitlements for urban children. These included: school reform, full-day kindergarten, pre-school for children ages three and four, a state-managed facilities program to get school facilities to code, social workers, technology, and summer school programming.

**Abbott VI (March 2000) (163 N.J. 95):**

The plaintiffs returned to the Supreme Court claiming that the state had failed to implement the pre-school program mandated in Abbott V. The NJ Supreme Court ruled for the plaintiffs and mandated reform of the pre-school program for the following academic year.

**Abbott: VII (May 2000) (164 N.J. 84):** The Speaker of the General Assembly requested clarification from the NJ Supreme Court regarding the facilities mandates of Abbott V. The Supreme Court held that the state is required to fund all costs of necessary facilities remediation and construction in the special needs districts and the state may remove special needs districts from having that classification if they no longer possess the characteristics of such.

**Abbott VIII (February 2002) (182 N.J. 153):** The Court mandated that districts and the Department of Education manage their disputes regarding preschool plans in a timely manner. Additionally, the Courts clarified that districts should develop contingency plans for facilities for preschools in order to ensure the facilities will meet the standards set forth in Abbott V. Additionally, the Supreme Court clarified some questions of certification and curriculum for the districts.

**Abbott IX (June 2002) (172 N.J. 294):**

Due to state budgetary issues, the Attorney General filed a motion to relax remedies outlined in the previous Abbott decisions for one year. The NJ Supreme Court held that the state's budget crisis did not entitle the Department of Education to preclude district appeals for supplemental funding above funding for prior fiscal years, but they could preliminarily establish a level of funding based on the previous year and suspend some requirements for one year.

**Abbott X (February 2004) (177 N.J. 578):**

This case served to formally approve the mediation between the Department of Education and Abbott plaintiff groups regarding the status of Abbott requirements. The Court ordered that whole school reform remain in place at the elementary level and that a team be created to investigate whole school reform as well as research-based secondary reform efforts for middle and high schools in Abbott districts.

**Abbott XI (July 2003) (177 N.J. 596):**

The NJ Supreme Court directed the Department of Education that funding must be in place for districts to maintain expenditures authorized for their 2002-03 budgets.

**Abbott XII (June 2004) (180 N.J. 444):**

The NJ Supreme Court allows for some relaxation of certification requirements and timelines for certification for preschool teachers as they relate to the Abbott V mandates.

**Abbott XIII (November 2004) (182 N.J. 153):**

The plaintiff group requested further mediation with the Department of Education as an extension of Abbott X. The request was granted by the Court.

**Abbott XIV (December 2005) (185 N.J. 612):**

The Court mandated the Abbott districts provide the Department of Education with long-range facilities requests by a specified deadline. Additionally, the Court mandated that the Department of Education submit its annual facilities report by a specified deadline.

**Abbott XV (May 2006) (187 N.J. 191):**

The Court granted a short-term funding freeze, allowing the Department of Education to build funding plans with the districts, while maintaining each district's ability to appeal funding decisions.

**Abbott XVI (May 2006) (196 N.J. 348):**

The Court clarified that the freeze of Abbott XV did not mean operational funds for new facilities' opening expenses would be frozen as well.

**Abbott XVII (May 2007) (193 N.J. 34):**

The plaintiffs contended that they needed extra funding for school construction in order for the Department of Education to be in compliance with Abbott V, but the Court contended that the argument was premature because the 2008 budgets had yet to be adopted.

**Abbott XVIII (February 2008) (196 N.J. 451):**

The Court granted a State appeal for extended time to develop new construction funding plans.

**Abbott XIX (November 2008) (196 N.J. 544):**

This case was brought to the NJ Supreme Court as a result of the new state funding legislation. The state sought declaration that the new formula was constitutional and met the standards set forth previously by Abbott. The Court remanded the case and mandated testimony and evidence finding with the burden of proof being on the State.

**Abbott XX (May 2009) (199 N.J. 140):**

Based on the recommendation from the Special Master assigned via Abbott XIX, the new funding system (SFRA) was found by the NJ Supreme Court to be constitutional and may be applied to Abbott districts as long as the state fully funds the formula.

**Legal Standard Used in Decision:**

The series of Abbott cases was based on the State Constitution's education clause, specifically the phrase "thorough and efficient."

**Financial Concept Used in Decision:**

The series of Abbott cases was based on the State Constitution's education clause and was one of vertical equity as adequacy as it asks for supplemental programming to support disadvantaged population to the same general outcomes as the advantaged population. Each follow-up case was based on the original claim of inadequacy so all Abbott cases can be categorized in this manner.



**Case Title:** *Board of Education of Cincinnati v. Walter* (58 Ohio St. 368)

**Full Citation:**

Board of Education of the City School District of the City of Cincinnati et al., Appellees and  
Cross-Appellants

v.

Walter, et al. Appellants and Cross-Appellees

**State:** Ohio

**Court:** Supreme Court of Ohio

**Decision Date:** June 13, 1979

**Plaintiff Claims:**

- This appeal was a result of the lower court determining that the funding system was unconstitutional under Section 2 of Article VI, the Thorough and Efficient Clause and Section 2 of Article I, The Equal Protection and Benefit Clause of the Ohio Constitution. That decision was appealed to the County Court of Appeals which affirmed that the finance system violates the Equal Protection Clause but reversed the decision that the Thorough and Efficient Clause had been violated. This case was in response to the decision of the Court of Appeals of Hamilton County.

**Decision:**

- The Court found that local control was a solid rational basis for supporting the funding system as constitutional under the Equal Protection and Benefits Clause.
- The Court found that the state funding system did not violate the Thorough and Efficient Clause of the Ohio Constitution.

**Reasoning:**

Regarding Constitutionality Under the Equal Protection and Benefit Clause:

- Defendants contend that the system is designed to allow local control and that education is not a fundamental right and, thus, is not subject to strict scrutiny. They also contend that even if held to strict scrutiny standards, local control is a compelling state interest justifying the disparity of educational opportunity.
- The Court reviewed the decision of *San Antonio v. Rodriguez* (411 U.S.1) with regard to determining scrutiny, but made the determination that that case was not an appropriate standard by which to judge Ohio's specific constitutional guidelines. The Court determined that this case was not appropriate for strict scrutiny because the Court saw the case as more a matter of how taxes were collected and spent than one of education.
- Under the rational basis level of scrutiny, the Court presumed that statutes are held constitutional unless it can be proven beyond a reasonable doubt that the legislation and Constitution are in specific conflict.

- The Court found that local control was a solid rational basis for supporting the funding system as constitutional under the Equal Protection and Benefits Clause.

Regarding Constitutionality Under the Thorough and Efficient Clause:

- The Court clarified that it is within their judicial duty to review the constitutionality of legislation.
- The Court indicated that wide discretion needed to be given to the Legislature regarding this issue.
- The Court found that the state funding system did not violate the Thorough and Efficient Clause of the Ohio Constitution.

**Legal Standard Used in Decision:**

Both the State Education Clause and the State Equal Protect Clause were the basis for the original plaintiff claims.

**Financial Concept Used in Decision:**

- The plaintiff contention was that vast disparities existed between districts based on their self-taxation ability and willingness. Additionally, the claim was made that, as a result, there were schools being deprived of what was necessary for an effective education. The first claim is one of horizontal equity because it addresses differences in resources unrelated to educational need. The second is an example of a pure vertical equity claim because no standard of outcome was set, but the issue of “sameness” was raised.

**Case Title:** *Brigham v. State* (166 Vt. 246)

**Full Citation:**

Supreme Court of Vermont  
Amanda BRIGHAM, et al.  
v.  
STATE of Vermont

**State:** Vermont

**Court:** Supreme Court of Vermont

**Decision Date:** February 5, 1997

**Plaintiff Claims:**

Plaintiffs made three separate claims:

- The first set of plaintiff claims was that the State's funding system deprived students from having the same educational opportunities as those in wealthier districts, contending that this violated the Vermont and federal constitutions.
- The second set of claims were from plaintiffs who were property owners in "property poor" districts, claiming that the funding system compelled them to contribute more than their just portion to fund education.
- The third claim comes from school districts in property poor districts that claim the funding system forced them to impose disproportionate taxes and yet still did not provide them with the ability to raise sufficient money to be equal to districts in property wealthy areas.

**Decision:**

The Court concluded that the existing system for funding public education created wide disparities between school districts and "deprive(d) children of an equal educational opportunity," thus, violating the right to equal educational opportunities as listed in the Vermont Constitution.

**Reasoning:**

- The Court considered that using a foundation formula to fund schools allows for equity only to a certain minimum level and that the districts with higher levels of property wealth can more easily spend above the minimum foundation level.
- The Court indicated that there was undisputed evidence that disparities in student expenditures existed among Vermont schools and there was a strong correlation between those expenditure levels and the taxable property wealth of the district.
- The Court also indicated that, while various districts may manage money better than others, in general, money is a variable in educational opportunity.
- The Court did not bother to determine if "strict scrutiny" or "rational basis" should be the standard because under either standard the Court saw a violation.

- The Court considered Vermont’s constitutional history as they interpreted the Education Clause within the State Constitution, noting that education was the only public service noteworthy of being listed in Vermont’s original constitution (a fact that the Court noted gave weight to the importance of education constitutionally).
- The Court indicated that it could find no fathomable governmental purpose to justify gross inequities in educational opportunity.
- Additionally, the Court indicated that “educational opportunity may not have as its determining force the mere fortuity of a child’s residence.”
- The Court noted that poorer districts cannot be expected to tax themselves at unmanageable tax rates to reach equitable spending on education.

**Legal Standard Used in Decision:**

Plaintiffs made both Education Clause and Equal Protection claims, but the Court ruled based on its interpretation of the State Constitution’s Education Clause.

**Financial Concept Used in Decision:**

The Court used the standard of Pure Vertical Equity in this decision in that the decision was certainly grounded in the ability to reach educational outcomes (and having the resources to do so), but did not address varying resources based on educational need.

**Case Title:** *Buse v Smith* (74 Wis. 2d 550)

**Full Citation:**

Buse, and others, Petitioners  
v.  
Smith, and others, Respondents  
No 75-552  
Supreme Court of Wisconsin

**State:** Wisconsin

**Court:** Supreme Court of Wisconsin

**Decision Date:** November 30, 1976

**Plaintiff Claims:**

The original plaintiffs in this case were taxpayers from various negative-aid districts who asserted that by asking districts to impose taxation and by redistributing the funding across all districts in the state the funding plan violated the rule of uniform taxation within the Wisconsin Constitution.

**Decision:**

The Court ruled that the existing school funding scheme was a violation of Article VIII (uniform taxation) of the Wisconsin Constitution.

**Reasoning:**

- The Court reviewed the general components of the principle, with the primary focus and issue at hand being the district power equalization which property wealthy districts do not receive funds from the general taxation pool, but instead supplement it.
- The goal of the equalization was to prevent per-pupil spending disparities between districts.
- Two factors determined if a district ends up being a negative-aid district (contributing funds) or a positive-aid district (receiving funds): 1) How the district's actual valuation compares to the guaranteed valuation per pupil outlined in the funding formula. 2) Whether the district spends more or less in actual cost per pupil than the state primary cost-shared ceiling.

Regarding the right of negative-aid school districts to make the constitutional challenge:

- The Court determined that the Wisconsin Constitution prevents entities of the State from making such constitutional challenges;
- However, the taxpayers listed as plaintiffs did have standing for such a challenge.

Regarding the obligation of the state for equalized education funding under Article X, Section 3 of the Wisconsin Constitution:

- The article requires that the schools be "as nearly uniform as practicable..."

- The Court indicated that once the state had provided for each child the “privileges of a district which he or she may freely enjoy, the constitutional requirement is complied with.”

Regarding the possibility that Section 4 of Article X of the Wisconsin Constitution mandates local control of education:

- The Court determined that local control was limited to provide educational opportunities over and above those provided by the State but that the State obligation to provide a free education eliminated the possibility of one hundred percent local control of all elements of funding.

Regarding negative-aid payments as taxes:

- The Court indicated that local districts raise the funds that would pay the negative-aid payments via taxation, but that taxation is a local taxation.
- The Court also determined that the negative-aid payment was a means of distribution or payment using the collected funds, but not a tax in and of itself.

Regarding the possibility that redistribution of negative-aid payments violates Section 1, of Article VIII in the Wisconsin Constitution:

- This article indicates that taxation shall be uniform.
- The Court concluded that the State cannot mandate one school district to levy and collect a tax for the direct benefit of other school districts or for the benefit of the State. Therefore, the Court ruled that this element of the funding system was in violation of Article VIII of the Wisconsin Constitution.

Regarding negative-aid payments being an Equal Protection violation:

- The Court indicated that education had been established as a fundamental right under the Wisconsin Constitution; thus, such consideration required the standard of strict scrutiny.
- The Court determined that the system would pass the strict scrutiny standard and that not Equal Protection violation existed.

#### **Legal Standard Used in Decision:**

- The legal standard for decision was both Taxation law and State Equal Protection.

#### **Financial Concept Used in Decision:**

- This decision was based in Horizontal Equity.

**Case Title:** *Campbell v. State I* (907 P.2d 1238)

**Full Citation:**

Supreme Court of Wyoming  
CAMPBELL COUNTY SCHOOL DISTRICT, State of Wyoming; et al., Appellants (Plaintiffs)  
v.  
STATE of Wyoming: Diana J. Ohman, State Superintendent of Public Instruction: et al.,  
Appellees (Defendants), and Big Horn County School District No. One, State of Wyoming, et al.  
Appellees (Intervening Defendants). STATE of Wyoming: Diana Ohman, Superintendent of  
Public Instruction; Fave Ferrari, State Auditor; Nedolyn Testolin, Michael Glode, Karen  
Moulton, Lynn Dickey, Lynn Messenger, Elizabeth Field, Judy Campbell, Charlotte  
Levendosky, Jack Iverson, Wayne Mortensen, and John Andrikopoulos, Members of the  
Wyoming State Board of Education, Appellants (Defendants),  
v.  
CAMPBELL COUNTY SCHOOL DISTRICT, State of Wyoming, et al., Appellees (Plaintiffs),  
and Laramie County School District No. One, et al., and Wyoming Education Association,  
Appellees (Intervening Plaintiffs). LARAMIE COUNTY SCHOOL DISTRICT NUMBER ONE,  
State of Wyoming, Appellant (Intervening Plaintiff),  
v.  
Diana OHMAN, Superintendent of Public Instruction, State of Wyoming, et al. Appellees  
(Defendants), and Big Horn County School District No. One, State of Wyoming, et al. Appelless  
(Intervening Defendants). WYOMING EDUCATION ASSOCIATION, Appellant (Intervening  
Plaintiff)  
v.  
Diana OHMAN, Superintendent of Public Instruction, State of Wyoming, et al. Appellees  
(Defendants), and Big Horn County School District No. One, State of Wyoming, et al. Appelless  
(Intervening Defendants). BIG HORN COUNTY SCHOOL DISTRICT NO. ONE, State of  
Wyoming, et al., Appellants (Intervening Defendants).  
v.  
CAMPBELL COUNTY SCHOOL DISTRICT, State of Wyoming, et al. Appellees (Plaintiffs),  
and Laramie County School District No. One, et al., and Wyoming Education Association,  
Appellees (Intervening Plaintiffs).

**State:** Wyoming

**Court:** Supreme Court of Wyoming

**Decision Date:** November 8, 1995

**Plaintiff Claims:**

The original plaintiffs claimed that Wyoming's public school finance system violated the Equal Protection section of the Wyoming Constitutions, specifically Article 1, 34) and the Education Article of the Wyoming Constitution (Article 7, 1-23). After the state denied those claims, twenty-three school districts aligned with the state as intervening defendants and one school district and the Wyoming Education Association aligned with the plaintiffs and intervenors.

The plaintiffs contended that five components of the school finance system were unconstitutional: the divisor feature, the municipal divisor feature, the recapture feature, the optional mills feature, and the capital construction feature.

**Decision:**

The Court found the funding system to be in violation of both the State Education Clause mandates and the State Equal Protection mandates under a review of strict scrutiny.

**Reasoning:**

- The Court determined three key questions for analysis with this appeal: 1.) Whether the court's exercise of its judicial power to declare school finance system statutes unconstitutional violates the doctrine of separation of powers. 2.) Whether the court must apply a rational basis or strict scrutiny standard of review to determine the constitutionality of the school finance system status. 3.) Applying the appropriate standard of review to the challenged components of the school finance system, whether these components are constitutional.
- The Court grounded its analysis in the prior decision of *Washakie County School District No. One v. Herschler* (606 P.2d 310) in which they determined that public education is a fundamental right under the Wyoming Constitution.
- The court reviewed in detail their working definitions from various sources of the following phrases in the education article "a thorough and efficient system of public schools, adequate to the proper instruction of all youth of the state" and "a complete and uniform system of public instruction."
- The Court acknowledged that because each district sets knowledge and skills standards and the benchmarks for meeting them, the standard of education can legally vary from district to district.
- The Court determined that it was within their judicial power to determine the constitutionality of legislation such as that outlining the school funding formula.
- The Court ruled that the district court erred in applying rational basis for review and that strict scrutiny should be the standard for review.

Regarding the divisor feature:

- It was undisputed by both parties that the divisor system produced wide disparities in funding on a per pupil basis between schools and between districts.
- The intent was to provide assistance for small schools and districts and to allow larger schools and districts to benefit from the "economy of scale," but there was an inverse impact for large urban schools.
- The Court also noted that the divisor system does not account for varying educational needs of certain groups of students that may be more prevalent on one size district than another (ie: At-risk students).

Regarding the municipal divisor feature:

- The municipal divisor recalculation was designed to prevent districts from building unnecessary small schools in cities or towns in efforts to generate additional funding.



- Evidence was considered by the court that at least one school district was functionally bankrupt as a result of the recalculation.
- Additionally, it was noted by the Court that the recalculation appeared arbitrary because some districts could increase enrollment by almost three hundred and receive not additional funding while some districts received additional funding with an increase of only three students.

Regarding the recapture feature:

- The statute set the recapture rate at one hundred and nine percent. Plaintiffs contended that this rate was set in an arbitrary manner because it had not had a cost study to define the rate.
- The Court determined that there was no disagreement that the recapture feature had the effect of wealth-driven funding disparities and turned to the question of if the state can constitutionally justify those disparities.
- The Court ruled that recapture was permitted, but because the one hundred and nine percent was arbitrarily set, this feature of the funding legislation was not constitutional.

Regarding optional mills:

- Plaintiffs claimed that districts with low assessed valuation and which receive lower formula funding are required to use all their optional mills to maintain a functioning system while districts of other demographics may not use any optional mills.
- For some districts the optional mills were necessary to fund programs, and in other districts they were deemed futile because of the minimal amount of funding they raised.
- The state's defense of this feature was a focus on local control.
- The Court determined that local control did not fulfill the strict scrutiny standard, and thus, this feature was in violation of the State Equal Protection provisions.

Regarding the capital construction feature:

- The Court reviewed evidence of districts that had exceeded bonding capacity and were forced to make educationally-poor decisions due to limited access to capital funding.
- The Court determined that the lack of capital outlay to schools in the existing formula was in violation of the constitutional requirements within the State Education Clause.

**Legal Standard Used in Decision:**

The decision was made using both the State Education Clause and the State Equal Protection Clause.

**Financial Concept Used in Decision:**

The decision was one of Vertical Equity as Adequacy as it focused on getting resources distributed in an adequate manner while recognizing various levels of needs of districts of various demographics.

**Case Title:** *CFE v. State* (719 N.Y.S.2d 475)

**Full Citation:**

Supreme Court of New York  
Campaign for Fiscal Equity, et al.  
v.  
THE STATE OF NEW YORK, et al.

**State:** New York

**Court:** Supreme Court of New York

**Decision Date:** January 10, 2001

**Plaintiff Claims:**

The original plaintiffs made two primary assertions:

- Plaintiffs claimed that the State has failed to assure that New York City's public schools receive adequate funding to afford their students the "sound basic education" guaranteed by the Education Article of the New York Constitution.
- Plaintiffs also contended that the State's funding mechanisms have an adverse and disparate impact upon the City's minority public school students in violation of Title VI of the Civil Rights Act of 1964.

**Decision:**

Regarding Plaintiff Claim number one, the Court ruled that the education provided to New York City students is so deficient that it falls below the constitutional floor outlined by the Education Article of the State Constitution. Regarding the possible civil rights violation, the Court ruled that the funding system did have a disparate impact on minority students but did not have a discriminatory intent which is necessary to be a Title VI violation.

**Reasoning:**

- The State Education Article reads, "The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be education." However, in the *Levittown* decision (57NY2d), the Court of Appeals determined that to mean a provision of "a sound basic education." This Court determined that, as a result of the *Levittown* decision (57NY2d) three primary issues needed to be addressed:
  - What constitutes a sound basic education?
  - Are New York school children provided with a sound basic education in the City's public schools?
  - If not, is there a "causal link" between the failure and the State's system of funding public schools?
- The Court noted that the *Levittown* decision did not call for a "state of the art" education. The Court noted specifically that the *Levittown* decision did not include specific minimums as some courts in other states had provided.

- After the 1995 decision, the New York State Board of Regents issued more rigorous educational standards, some of which the Court considered to exceed a sound basic education.
- The Court was hesitant to create with any specificity a standard for “sound basic education” but did create some general frameworks for that definition:
  - The Court rejected that a sound basic education was one limited to allow high school graduates to simply serve as jurors and voters.
  - Defendants argued that passage of the Regents Competency Tests was an indicator of sound basic education, but the Court noted that would only require the equivalent of a ninth grade education.
  - Plaintiffs argued that preparing students for employment was a relevant factor in this definition, but the Court questioned what level of employment was sufficient to meet the standard.
  - Ultimately, the Court determined that the standards for a sound basic education must evolve as society and societal needs change.
- The State argued that the plaintiffs did not have standing because no injury had been inflicted. The Court disagreed, indicating that parents within the parent organizations serve as the representatives of their children to whom the injury was applied.
- The Court reviewed the demographics of the New York City public schools in which a large number of students have factors that correlate highly with poor academic achievement.

#### Regarding Measuring a Sound Basic Education By Inputs and Outputs:

- The Court noted the *Levittown* decision (57NY2d) in which inputs were generalized into three large categories:
  - “minimally adequate teaching of reasonably up-to-date curricula such as reading, writing, mathematics, sciences, and social studies, by personnel adequately trained to teach those subject areas”;
  - “minimally adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn”; and
  - “minimally adequate instrumentalities of learning such as desks, chairs, pencils and reasonably current textbooks.”

#### Regarding Measuring Teacher Quality:

- The Court noted the research in which teacher quality has a high correlation to student achievement, noting several measures of teacher quality: number of uncertified teachers in the school system, teacher scores on certification exams, and the quality of teachers’ undergraduate education.
- Using the above standards, the Court determined that the quality of teachers in the New York City public schools, in aggregate, was inadequate.

#### Regarding Competition for Qualified Teachers:

- The experts testified that there was a difference in the range of twenty percent and thirty-six percent between New York City teacher salaries and those in surrounding suburbs.
- Experts testified that salary differentials were a primary cause of teachers selecting suburban schools in New York versus city schools.

- The defendants argue that salaries should not have been compared to suburban districts, but instead to other larger metropolitan areas.

#### Regarding Curricula:

- The Court indicated that a reasonable curriculum was in place, but the problem existed in the implementation and delivery of it due to inadequate teaching.
- The Court rejected the Court of Appeals omission of art and physical education as part of a sound basic education, asserting that those areas support a sound basic education in the core areas, and yet those two areas have not been adequately funded.

#### Regarding School Facilities and Classrooms:

- The Court found a causal link between poor facilities and performance of students, but indicated that the link was difficult to measure.
  - Despite master plans for ongoing repair and upkeep, the conditions of the schools continued to be below the acceptable range.
  - The *Levittown* decision (57NY2d) indicated that the adequacy of school facilities is measured by whether they “permit children to learn.”

#### Regarding Overcrowding and Class Size:

- The Board of Education conducted an annual Enrollment Capacity Utilization (ECU) report and found that schools serving 70% of the City’s students were overcrowded, using the ECU formula.
- The Court acknowledged evidence that class size correlates to student performance and heard evidence that New York City’s class sizes exceeded the state average.
- The Court found that teacher/student ratios are not a benchmark of adequacy because without classroom space, the teachers cannot be utilized to decrease class size.

#### Regarding Instrumentalities of Learning:

- The BOE had not maintained a record of textbooks used from year-to-year. Evidence indicated that historically there had been a shortage of textbooks, but most recently that had been alleviated to the point of meeting a standard of minimal adequacy.
- However, reviewing the primary source of textbook funding, the Court determined an inadequate amount to maintain a solid textbook rotation and replacement cycle for consumables.
- The Court determined that the libraries in the public schools are inadequate in number and quality.
- The Court determined that despite efforts to infuse instructional technology, the resources were outdated and underfunded in the City’s schools.

#### Regarding Graduation/Drop-out Rates & Performance on Standardized Tests:

- The drop-out rate of New York City public schools was 30%.
- Additionally, ten percent of the students entering ninth grade end up receiving a GED, which the Court determined to not meet the standard of a sound basic education.
- Forty-eight percent received a local diploma, indicating they met credit requirements but did not pass the Regents test—essentially limiting them to a ninth grade equivalent

education--and twelve percent obtained a diploma, indicating they had received what the Court considered a sound basic education.

- The Court noted that on all standardized tests issued in the state, the City students performed below an acceptable standard in aggregate.

#### Regarding Causal Links between the Funding System and Educational Opportunity:

- Defendants offered two experts to testify that resources do not have a causal link to student outcomes (Dr. David Armor and Dr. Hanushek).
- Dr Armor's essential contention was that socioeconomic background is such a crucial factor that student performance is not statistically affected by school funding. The Court determined that Dr. Armor's contentions were not persuasive and that his research methods were flawed as they related to this particular issue.
- Dr. Hanushek's presented evidence that poor students can increase their performance with high teacher quality, but he did not feel the school systems were using the correct criteria for teacher quality. He suggested tying compensation to outcomes and indicated he felt the City had sufficient resources to improve student outcomes with such an adjustment. The Court did not find Dr. Hanushek's evidences to be persuasive.

#### The Courts Remedy and Order:

- The Court indicated that the legislature must be given first opportunity to reform the system and provided the following parameters for the reform.
- The system must include: sufficient numbers of qualified teachers, principals and other personnel; appropriate class sizes; adequate and accessible school buildings with sufficient space to ensure class size and implementation of a sound curriculum; sufficient and up-to-date books, supplies, libraries, educational technology and laboratories; suitable curricula, including an expanded platform of programs to help at-risk students by giving them "more time on task"; adequate resources for students with extraordinary needs; and a safe, orderly environment.
- Additionally, the Court indicated that reforms must address the following issues:
  - Ensuring that every school district has the resources necessary for providing the opportunity for a sound basic education.
  - Taking into account variations of local costs.
  - Providing sustained and stable funding in order to promote long-term planning by schools and school districts.
  - Providing as much transparency as possible so that the public may understand how the State distributes school aid.
  - Ensuring a system of accountability to measure whether reforms implemented by the legislature actually provide the opportunity for a sound basic education and remedy the disparate impact of the current finance system.
  - Examining the effects of racial isolation on many of the City's school children

#### **Legal Standard Used in Decision:**

The decision was based on the State Education Clause, specifically the language "sound basic education."

**Financial Concept Used in Decision:**

This case is best categorized as Vertical Equity as Adequacy because it addresses inputs against outcome standards for a specific group of students, specifically those living within the urban City limits.

**Case Title:** *Claremont School District v. Governor* (138 N.H. 183)—Claremont I

**Full Citation:**

Supreme Court of New Hampshire  
CLAREMONT SCHOOL DISTRICT and another  
v.  
GOVERNOR and another.

**State:** New Hampshire

**Court:** Supreme Court of New Hampshire

**Decision Date:** December 30, 1992

**Plaintiff Claims:**

- The plaintiffs made multiple claims addressed in this case:
  - That the State fails to spread educational opportunities equitably among its students and adequately fund education.
  - That the foundation aid statutes unconstitutionally restrain the State aid to public education by capping State assistances at eight percent.
  - That both the State school finance system and the foundation aid statutes deny plaintiffs equal protection.
  - That the heavy reliance on property taxes to finance public schools results in an unreasonable and disproportionate tax burden in violation of Part II, Article 5 of the State Constitution.

**Decision:**

- Reversing the decision of the lower Court, the State Supreme Court found that Part II, Article 83 of the New Hampshire Constitution imposes a duty on the State to provide a constitutionally adequate education to every educable child in the public schools in New Hampshire and to guarantee adequate funding. The Court remanded the other issues presented.

**Reasoning:**

- This case was an appeal of the lower court decision that the New Hampshire Constitution imposes no duty on the State to support the public schools.
- Reversing the decision of the lower Court, the State Supreme Court found that Part II, Article 83 of the New Hampshire Constitution imposes a duty on the State to provide a constitutionally adequate education to every educable child in the public schools in New Hampshire and to guarantee adequate funding.
- The lower Court had connected its decisions on all the other plaintiff claims to its determination that Part II, Article 83 did not create a duty for the State to spread educational opportunities equitably. Therefore, the high court focused only on that decision and remanded other decisions contingent on their determination regarding that element of the plaintiff claims.

- The Court gave strong consideration to the Massachusetts case of *McDuffy v. Secretary of the Executive Office of Education* (415 Mass. 545) because the Massachusetts and New Hampshire Constitutional language were very similar.
- Additionally, the Court considered the historical context of the language—being connected to an era in which Puritan settlers highly valued education and saw it highly connected with the governmental process.
- Based on the extensive review of language/definitions and a review of the historical connections, the Court determined that Part II, Article 83 of the New Hampshire Constitution imposes a duty on the State to provide universal education and to financially support the schools.
- The Court purposefully avoids defining the parameters of such an education, indicating that is the duty of the legislature and the Governor.

**Legal Standard Used in Decision:**

- The plaintiffs made both State Equal Protection claims and State Education Clause claims; however, the court only addressed and based a decision on the State Education Clause plaintiff assertions.

**Financial Concept Used in Decision:**

- The multiple plaintiffs can be categorized each into various financial concepts; however, the Court only ruled on the assertion that the state education clause mandated an adequate education be provided. That particular focused ruling is best categorized as a pure Adequacy decision because the focus was on the State obligation to provide adequate funding into the system as a whole.



**Case Title:** *Claremont School District v. Governor* (142 N.H. 462)—Claremont II

**Full Citation:**

Supreme Court of New Hampshire

CLAREMONT SCHOOL DISTRICT and others.

v.

GOVERNOR and another.

**State:** New Hampshire

**Court:** Supreme Court of New Hampshire

**Decision Date:** December 17, 1997

**Plaintiff Claims:**

Plaintiffs contended that the lower Court ruling regarding the state funding system and its constitutionality under the State Equal Protection Clause and the State Taxation Clause was erroneous.

**Decision:**

- The Court ruled that the existing system of financing elementary and secondary public education was unconstitutional.
  - The Court ruled that an adequate education was a fundamental right because it was outlined as such in the State constitution.
  - The Court ruled that the property tax levied to fund education was a State tax and was disproportionate and in violation of Part II, Article 5 of the New Hampshire Constitution.

**Reasoning:**

- This case is a second appeal—the first appeal resulted in the Court’s determining that it was a state duty to provide an adequate education, remanding the remaining issues for decision.
- The issues on remand were re-reviewed by the lower court and the following decisions were made by the trial court:
  - The education in the plaintiff school districts is constitutionally adequate.
  - The system of funding in the state ensures constitutionally adequate funding to each of the plaintiff school districts.
  - The system of school funding does not violate the Equal Protection Clause of the State constitution
  - The funding system does not violate Part II, Article 5 of the state constitution.
- In this appeal the Supreme Court ruled that the property tax levied to fund education was a State tax and was disproportionate and in violation of Part II, Article 5 of the New Hampshire Constitution—having made that ruling, the Court did not rule on the plaintiffs’ other claims.

- Regarding the State tax, the plaintiffs contended that the mandate from the state and the use of the state control of the funds made the levy a State tax. The State argued that the local control of budgeting and tax need determinations made the levy a local tax.
- Part II, Article 5 of the State Constitution provides that the legislature may “impose and levy proportional and reasonable assessments, rates and taxes upon all the inhabitants of, and residents within the said state.” The Court indicates that the article requires that all taxes be proportionate and equal in value and uniform in rate.
- The lower court had said that the criteria for determining if a tax is local or state are “the entity that controls the mechanics of assessment and collection” and “the disposition of the tax revenue after their collection.” The Supreme Court in this appeal determined that, instead, the criterion should be the purpose of the tax, indicating “if the tax is for the general purposes of the state, the rate should be the same throughout the state.”
- The Court reversed the lower court decision and determined that the levied tax in the existing funding system was a State tax and thus needed to be proportional.
- The questions of proportionality and reasonableness were then addressed by the Court:
  - The Court found a tax rate discrepancy as high as four hundred percent and determined that the existing tax is a disproportionate state tax.
  - The Court defined *reasonable* to mean “just” and determined that the funding system was not reasonable because the burden of educational opportunities for all was not evenly distributed.
- The Court addressed the issue of adequacy in the system.
  - The Court referred back to their decision in *Claremont I* mandating that the legislature define *adequate* as it relates to the constitutional mandate.
  - The Court stated that the standard of adequacy must change in an ever-evolving world.
  - The Court cited the standards of adequacy outlined in *Rose v. Council for Better Education, Inc.* (790 S.W.2d).
  - The plaintiffs were seeking on appeal that the Court define an adequate education as a fundamental right, requiring the strict scrutiny standard of review.
    - The Court indicated that the mere existence of a charge to the legislature in a State Constitution to provide a public education makes it a fundamental right.

### **Legal Standard Used in Decision:**

The issue of taxation was decided based on a taxation clause within the State Constitution. The issue of adequacy education being a fundamental right is one that would be addressed under the state Equal Protection Clause.

### **Financial Concept Used in Decision**

This appeal dealt with Horizontal Equity claims when considering taxation rates and burden for educational opportunity. It also addressed Adequacy in that is focused on developing a standard of adequacy and determined that an adequate education was a fundamental right in the State of New Hampshire.

**Case Title:** *Coalition for Adequacy and Fairness in School Funding, Inc. v. Chiles* ( 680 So.2d 400)

**Full Citation:**

Coalition for Adequacy and Fairness in School Funding, Inc., et al., Appellants.

v.

Lawton Chiles, Governor of the State of Florida and presiding Officer of the State Board of Education; Douglas Jamerson, Commissioner of Education of the State of Florida; State Board of Education, a public Florida corporation; Pat Thomas, as President of the Florida Senate; and Bolley L. Johnson, as Speaker of the Florida House of Representatives, Appellees.

**State:** Florida

**Court:** Supreme Court of Florida

**Decision Date:** June 27, 1996

**Plaintiff Claims:**

- Plaintiffs sought a ruling that an adequate education is a fundamental right under the Florida Constitution and that the State had failed to provide its students that fundamental right by failing to allocate adequate resources for a uniform system of free public schools.
- Specifically, plaintiffs made the following assertions:
  - Certain students were not receiving adequate programs to permit them to gain proficiency in the English language;
  - Economically-deprived students are not receiving adequate education for their greater educational needs;
  - Gifted, disabled, and mentally handicapped children are not receiving adequate special programs;
  - Students in property-poor counties are not receiving an adequate education;
  - Education capital outlay needs are not adequately provided for; and
  - School districts are unable to perform their constitutional duties because of the legislative imposition of noneducational and quasi-educational burdens.

**Decision:**

The Court ruled that the plaintiffs had not provided ample enough evidence to cause the Court to intervene in the “enormous discretion by the Florida Constitution to determine what provision to make for an adequate and uniform system of free public schools.”

**Reasoning:**

Regarding Parties and Standing:

- The plaintiffs argued that the trial court erred by determining they did not had jurisdictional basis for action.
- The Court determined that because the appellees either had taken a present, adverse, and antagonistic position to that espoused by the plaintiffs or would be necessary parties for state action on the matter, all parties listed are appropriate.

#### Regarding Declaratory Relief:

- The court notes that “the purpose of declaratory judgment is to afford parties relief from insecurity and uncertainty with respect to rights, status, and other equitable or legal relations.”
- The Court used that standard and determined the case appropriately sought declaratory relief.

#### Education Article:

- Article IX, Section 1 of the Florida Constitution provides:
  - “Adequate provision shall be made by law or a uniform system of free public schools and for the establishment, maintenance and operation of institutions of higher learning and other public education programs that needs of the people may require.”
- The phrase “adequate provision” is what was being questioned.
- The Court began its analysis with a historical review of the Florida education article.
  - The original article (1838) indicated that “ample provision for the education of all the children” be provided and listed it as a “paramount duty of the State.”
  - In 1885, “paramount duty” was deleted.
  - The Court reviewed the various Florida cases that have tried to define “uniform system of free public education.”
    - In 1939, *Clark v. Henderson* (137 Fla. 666) indicated that “a uniform system means that a system of free schools, as distinguished from the authorized State educational institutions, shall be established upon principles that are of uniform operation throughout the State and that such system shall be liberally maintained.”
    - In 1977, *School Board of Escambia County v. State* (353 So. 2d 834) defined a uniform system as one where “the constituent parts, although unequal in number, operate subject to a common plan or serve a common purpose.”
    - In 1991, a group of buildings claimed that a fee for new construction to be given for new school construction was unconstitutional. The Court ruled against the builders in *St. Johns County v. Northeast Florida Builders Association* (583 So. 2d 635).
    - In *Florida Department of Education v. Glasser* (622 So. 2d 944), the Supreme Court of Florida declined to define with specificity a uniform system of free public schools, indicating that such a definition is the responsibility of the legislature.
    - The Court affirmed the trial court’s decision that it cannot be the role of the Court to determine a level of adequacy for education.

#### Regarding Separation of Powers:

- Appellees argued that the Court has the power to evaluate the constitutionality of an existing system even if the court was unwilling to define adequacy.
- The Court disagreed, calling the request a “non-justiciable political question.”

**Legal Standard Used in Decision:**

This case was based in the Education Clause of the Florida Constitution.

**Financial Concept Used in Decision:**

The question presented by the plaintiffs was one of Vertical Equity as Adequacy in that they cited various groups with special needs and outlined their level of adequacy; however, the case was decided based on justiceability of the matter.

**Case Title:** *Columbia Falls Elementary School District No. 6 v. Montana*

**Full Citation:**

Supreme Court of Montana  
COLUMBIA FALLS ELEMENTARY SCHOOL DISTRICT NO. 6 and H.S. District No. 6;  
East Helen Elementary District No. 9; Helena Elementary District No. 1 and H.S. District No. 1;  
Billings Elementary District No. 2 and H.S. District No. 2; White Sulphur Springs Elementary  
District No.8 and H.S. District No. 8; Troy Elementary District No. 1 and H.S. District No. 1;  
MEA-MFT; Montana School Boards Association; Montana Rural Educational Association;  
School Administrators of Montana; Alan and Nancy Nicholson; Gene Jarussi; Peter and Cheryl  
Marchi; and Michael and Susan Nicosia, for themselves and as parents of their minor children,  
Plaintiffs, Respondents and Cross-Appellants.  
v.  
The STATE of Montana, Defendant and Appellant.

**State:** Montana

**Court:** Supreme Court of Montana

**Decision Date:** March 22, 2005

**Plaintiff Claims:**

The original plaintiffs contended that Montana had been unconstitutionally administering and funding the public schools system. The District Court agreed with plaintiffs and the State appealed, claiming the issue was one for political, not judicial decision, and that the system is not in violation of either the Education Clause or Equal Protection Clause of the State Constitution.

**Decision:**

- The Court deferred to the legislature to determine what a true standard of *quality* means, but determined that the existing system did not meet any level of *quality*, even one yet to be determined.

**Reasoning:**

Regarding Justiceability:

- Leaning on the federal case of *Baker v. Carr* (369 U.S. 186), the Court determined the key question regarding justiceability is a determination regarding whether the provision is “self-executing.”
- Because the Education Clause provides a direction to the legislature, the Court determined it was not self-executing. Thus, once the legislature has “executed” that directive, there can be a judicial review of the constitutionality of how it was executed.
- The Court ruled the issue at hand as justiciable.

Regarding Article X, Section 1(3):

- The question at hand focuses on the phrase within Article X that calls for “providing a basic system of free quality public elementary and secondary schools”; the key word being questioned was *quality*.

- In response, in part, to the Court’s earlier ruling in *Helena School District No. 1. v. State* (769 P.2d 684), the legislature created a system under HB677 that created minimums and maximums for school districts’ budgets.
- The Court noted that most school districts are operating at over ninety-eight percent of their budget, and many are exceeding their allowed maximum. The districts contend that a “quality” education cannot be provided within the existing parameters.
  - The State conceded that in passing HB677 no cost analysis study was done.
  - The lower court had noted that HB 677 did not provide for inflation.
  - The Court determined that no threshold of “quality” existed, and thus, they could not determine that the legislature had met that constitutional obligation.
  - The Court took note that the current system is deficient financially based on undisputed trial evidence.

Regarding State Equal Protection:

- The Court did not address the issue because it had already found the system to be unconstitutional under Article X, Section 1(3).

**Legal Standard Used in Decision:**

The decision was based in the State Education Clause.

**Financial Concept Used in Decision:**

This was an example of Adequacy in that the districts were contending that systemically there was not enough money to provide an adequate education in any district based on the limitations set by the funding formula.

**Case Title:** *Committee for Educational Equality v. State* (878 S.W.2d 446)

**Full Citation:**

Supreme Court of Missouri  
COMMITTEE FOR EDUCATIONAL EQUALITY, et al., Appellants  
Coalition to Fund Excellent Schools, et al., Appellants,  
v.  
STATE OF MISSOURI, et al., Respondents,  
W. BEVIS SCHOCK, REX SINQUEFIELD and MENLO SMITH, Respondents

**State:** Missouri

**Court:** Supreme Court of Missouri

**Decision Date:** September 1, 2009

**Plaintiff Claims:**

The Plaintiff districts claim that Missouri's school funding system results in a system that is unconstitutionally disparate and inadequate. Plaintiffs claim the formula applies incorrectly calculated tax assessment data and, thus, renders incorrect "local effort" which impacts the adequacy and equity across schools in the state of Missouri.

**Decision:**

The Court ruled that there was no constitutional violation created by the revision of the school funding system.

**Reasoning:**

- The original claim revolved around the funding formula in 2004 known as Senate Bill Number 380 (SB380). Plaintiffs claimed SB380 created inadequacies that violated the Missouri constitution, specifically Article IX, Section 1(a) which reads the State should provide an education that promotes "a general diffusion of knowledge and intelligence."
- As the case proceeded through the years, the legislature revised the funding system to Senate Bill 287 (SB287). SB287 was an attempt to remedy inequities; it reflected a view that districts with greater "local effort" require less assistance from the state to meet the needs of a free public education. SB287 was designed to be phased in over seven years. Plaintiffs contend that both funding formulas fail to fund schools adequately.
- The Supreme Court ruled that the Court of Appeals erred by allowing the Defendant-Interveners to join the case, but that the error did not require decision reversal.
- The Plaintiff's appeal was categorized in four general categories:
  - The formula "inadequately" funds schools in violation of Article IX of the Missouri Constitution;
  - The formula violates equal protection;
  - The formula violates the Missouri Hancock Amendment; and
  - The legislature violated Article X of the Missouri Constitution by incorporating inaccurate assessment figures into the formula.



#### Regarding Plaintiff Standing:

- The defendants contended the plaintiffs' standing on several grounds.
  - The defendants claimed that school districts are not-for-profit organizations and cannot litigate. The Court had previously ruled that "the capacity of a school district to sue and its authority to prosecute actions required to protect and preserve school funds and property is necessarily implied from the district's duty to maintain schools and conduct instruction within its boundaries" (*State ex rel. School District of Independence v. Jones* --653 S.W. 2d 178).
    - The Court determined that the school districts had standing to challenge the funding formula under Article IC, Section 1(a).
    - The Court also ruled that school districts have standing for their assessment challenges under Article X.
    - The Court, however, ruled that school districts lacked standing to assert inadequacy of school funding violates their equal protection rights or the Hancock Amendment because they are not "persons" within the realm of such protections.
  - The defendants also contended that the individual taxpayer plaintiffs lacked standing to bring challenges to other taxpayer's property assessments as they were not injured personally.
    - The Court determined that such taxpayers had standings as it related to an assertion that the State was spending tax revenue improperly under Articles IX and X of the Missouri Constitution.

#### Regarding Article IX, Section 3(b)—The Education Clause:

- Article IX, Section 3(b) of the Missouri Constitution reads:

“In event the public school fund provided and set apart by law for the support of free public schools, shall be insufficient to sustain free schools at least eight months in every year in each school district of the state, the general assembly may provide for such deficiency; but in no case shall there be set apart less than twenty-five percent of state revenue, exclusive of interest and sinking fund, to be applied annually to support of the free public schools.”
- Plaintiffs did not argue violation of this section. They instead contend that SB287 fails to provide what is extended beyond this section in Article IX, Section 1(a) which states:

“A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribed by law.”
- Plaintiffs contend that SB287 does not adequately provide “a general diffusion of knowledge and intelligence” as mandated. The Court ruled that this phrase was not intended to determine a fiscal level of adequacy (instead that was outlined in Section 3(b) with the minimum of twenty-five percent). Thus, the Court rule there was not violation of Article IX, Section 1(a).

Regarding Equal Protection:

- Plaintiffs contended that SB287 violated Article I, Section 2, Missouri’s Equal Protection Article by claiming that school funding adequacy and per-pupil expenditures are fundamental rights in Missouri.
- The Court noted that education is not a fundamental right under the United States Constitution, as was determined by *San Antonio Independent School District v. Rodriguez* (411 U.S. 1) and Missouri Courts have followed federal decisions regarding fundamental rights. Additionally, the Court examined Article X of the Missouri Constitution and found no “free-standing” mandate for adequacy or per-pupil expenditures.
- The Court ruled that there is no violation of Missouri’s Equal Protection Clause

Regarding the Hancock Amendment:

- The general purpose of the Hancock Amendment is to limit excessive governmental expenditures.
- The Court ruled that because districts were seeking an increase in spending of tax dollars, not a decrease, the Hancock Amendment challenge failed.

Regarding Article X:

- The plaintiffs contended that the State Tax Commission did not follow the mandates of Article X, Sections 3, 4, and 14 in reporting the 2004 assessments for school funding purposes. Additionally, they contended that the legislature acted unlawfully by freezing the Commission’s 2004 property tax assessments into SB287’s funding formula.
- Plaintiffs contend that the assessments create incorrect “local effort” calculations.
- The plaintiffs had a burden to prove that taxes were not uniform. Plaintiffs were not making such a claim but instead were contending that wrong figures were utilized in the creation of the formula.
- The Court ruled that without a specific mandate within the Constitution to dictate how a formula is created, burden remains with the legislature and is at their discretion.

**Legal Standard Used in Decision:**

This case was decided on State Equal Protection, State Education Clause, and State Taxation Articles.

**Financial Concept Used in Decision:**

Plaintiffs were essentially making a Horizontal Equity claim, claiming that factors outside of educational need were impacting funding.

**Case Title:** *Committee for Educational Rights v. Edgar* (174 Ill.2d 1)

**Full Citation:**

Supreme Court of Illinois  
The COMMITTEE FOR EDUCATIONAL RIGHTS et al., Appellants,  
v.  
Jim EDGAR, Governor of the State of Illinois, et al., Appellees.

**State:** Illinois

**Court:** Supreme Court of Illinois

**Decision Date:** October 18, 1996

**Plaintiff Claims:**

Plaintiffs alleged that the general state aid formula does not effectively equalize funding among wealthy and poor district in violation of the State Education Clause.

**Decision:**

The Court made the following rulings:

1. Disparities in educational funding between school districts based on relative property wealth of districts did not offend “efficiency” requirements of the Education Clause in the State Constitution.
2. The question of whether state educational institutions and services were “high quality” was outside the sphere of judicial function.
3. The state constitutional right to an education was not a fundamental right for the purpose of equal protection analysis.
4. A funding system that created disparities in funding based on local wealth met the rational basis standard of maintaining local control.

**Reasoning:**

Regarding the Education Clause:

- Article X, Section 1 of the Illinois Constitution includes the clause, “The state shall provide for an efficient system of high quality public educational institutions and services.”
- Plaintiffs contend that the vast disparities in levels of funding make the system “inefficient” in violation of Article X, Section 1.
  - The court reviewed the definition of *efficient* and determined that by definition alone it does not necessarily indicate a need for parity. However, the Court acknowledged that the contextual use of the word does provide some ambiguity.
  - The Court reviewed historical records of framers’ intent (specifically in the 1970 reframing of the Constitution) as well as similar case in other states.
  - The Court determined that based on the debates had during the 1970 reframing process, “efficiency” and “educational equality” should be held to be separate and distinct.

- Additionally, plaintiffs argue that the low property wealth districts are unable to create “high quality” education because of inadequate funding.
- The plaintiffs also claim that the existing funding scheme made it impossible to provide a “high quality” education for students who are considered “at-risk.”
- The Court determined that it was outside of its jurisdiction judicially to make a determination of how to define “high quality.”

**Regarding Equal Protection:**

- Citing *San Antonio v. Rodriguez* (411 U.S. 1), the Court determined that no equal protection claim could be made under the US Constitution regarding the state funding scheme for public education.
- Plaintiffs contend that *Rodriguez* did not dictate equal protection claims using the State Constitution’s Equal Protection Clause.
  - The Court ruled that education is not a fundamental right under the State Constitution.
  - Thus, the rational basis level of scrutiny was applied
  - The Court determined that maintaining local control was a rational basis for the existing funding scheme, despite the inequalities.

**Legal Standard Used in Decision:**

Plaintiffs made contentions using the State Education Clause as well as both the State and Federal Equal Protection Clauses.

**Financial Concept Used in Decision:**

The plaintiffs were making a claim of Horizontal Equity in claiming that factors other than educational need, namely property wealth, were impacting educational funding.

**Case Title:** *Connecticut Coalition for Justice in Education Funding v. Rell*

**Full Citation:**

CONNECTICUT COALITION FOR JUSTICE IN EDUCATION FUNDING, INC., ET AL.

v.

GOVERNOR M. JODI RELL, ET AL.

**State:** Connecticut

**Court:** Supreme Court of Connecticut

**Decision Date:** March 30, 2010

**Plaintiff Claims:**

Plaintiffs asserted that Article 8, Section 1 of the Connecticut Constitution guarantees students to a minimum quality of education, namely suitable opportunities.

**Decision:**

The Court ruled that Article 8, Section 1 of the Connecticut Constitution guarantees students educational standards and resources suitable to participate in democratic institutions, and to prepare them to attain productive employment and otherwise to contribute to the state's economy and remanded the case back to the trial court.

**Reasoning:**

- Specifically the plaintiffs contend their right to a suitable education have been violated because of the lack of: high quality pre-school, appropriate class sizes, programs and services for at-risk students, highly qualified administrators and teachers, modern and adequate libraries, modern technology and appropriate instruction, a rigorous curriculum with a wide breadth of textbooks, a school environment that is healthy, safe and well maintained, adequate services to fulfill IDEA, appropriate career and academic counseling, and suitably-run extracurricular activities.
- Plaintiffs also point to outputs, including AYP status, to assert that the state has failed to provide "suitable educational opportunities."
- Plaintiffs attributed the shortfall of necessary funding for a suitable education to the following things:
  - The legislature's failure to raise the foundation grant amount from \$5891 since 1999.
  - The failure of that foundation amount to account for the actual costs of providing special education students with suitable and substantially equal educational opportunities, and
  - The failure of the minimum base aid ratio to accurately calculate a town's ability to raise the necessary funds.

Regarding Justiceability:

- Referencing their decision in *Sheff v. O'Neill* (238 Conn 1), the Court determined that "courts do not have jurisdiction to decide case that involve matters that textually have been reserved to the legislature...In the absence of such a textual reservation, however, it

is the role and duty of the judiciary to determine whether the legislature has fulfilled its affirmative obligations within constitutional principles.”

- The Court determined the issues at hand were justiciable.

#### Regarding the Actual Text of the Constitution:

- The Court referred to the six standards they established for reviewing constitutional language as decided in *State v. Geisler* (222 Conn. 684): persuasive relevant federal precedents; the text of the operative constitutional provisions; the historical insights into the intent of the framers; related Connecticut precedents; persuasive precedents of other state courts and contemporary understandings of applicable economic and social norms.
- The Court determined that the language of the text was ambiguous regarding the plaintiffs’ claims; thus, other *Geisler* factors needed to be employed.

#### Regarding Previous Holdings of the Court:

- This case was the first in history to present a question of qualitative content in the education clause.
- However, the Court did reference its decision in *Horton I* (172 Conn 618) in which the Court determined that education in the state is a fundamental right subject to a strict scrutiny level of review.
- The Court indicated that previous decisions were well aligned with the plaintiff claims in this case.

#### Regarding Constitutional History:

- Although the Article does not lay it out in specific text, the Court noted that there had been a substantial historical importance of education in the state.

#### Regarding Other State Decisions:

- The Court indicated that other state high court decisions were in line with the concept that education must in some way be minimally adequate.

#### **Legal Standard Used in Decision:**

This case was decided based on the State Education Clause

#### **Financial Concept Used in Decision:**

The Plaintiffs made claims regarding inadequacy of both inputs and outputs for public schooling, making this decision one of pure Adequacy.

**Case Title:** *DeRolph v. State* (78 Ohio St.3d 193)

**Full Citation:**

Supreme Court of Ohio  
DeROLPH et al., Appellants  
v.  
The STATE of Ohio et al., Appellees

**State:** Ohio

**Court:** Supreme Court of Ohio

**Decision Date:** March 24, 1997

**Plaintiff Claims:**

**Decision:**

The Court ruled that the existing legislation failed to provide for a thorough and efficient system of common schools in violation of Section 2, Article VI of the Ohio Constitution.

**Reasoning:**

- Section 2, Article VI of the Ohio Constitution reads that the state needs to provide “a thorough and efficient system of common schools throughout the state.”
- The Court determined that it was well within their jurisdiction to make such a determination regarding constitutionality of legislation even though creating the legislation is the role of the General Assembly.
- Under the existing funding system, Ohio funded schools more from local funding than state funding, which was contrary to the national trend.
- The Court noted expert opinion that the foundation formula amount was not designed as an educational adequacy standard, but instead was derived backwards from the total dollars the legislature allocated to school funding that year.
- The Court indicated that the guarantees within the formula substantially benefit the wealthier districts more than the poor ones, working against the equalization effect of the formula.
- Because of legislation forbidding increased taxation as a result of reappraised property, the districts had been forced to increase levies to keep up with inflation.
- The existing legislation requires school districts unable to meet existing operating expenses to take out a spending reserve loan through a commercial lender—the Court considered this forced borrowing to be a weakness of the system.

Regarding the Language “Thorough and efficient system of common schools”:

- The Court heard testimony that “through and efficient” means it is the state’s responsibility to provide a system which allows its citizens to fully develop their human potential.

- The Court referenced their 1923 decision regarding the phrase in *Miller v. Korns* (107 Ohio St. 287) in which the Court ruled that “a thorough system could not mean one in which part or any number of the school districts of the state were starved for funds. An efficient system could not mean one in which part or any number of the school districts lacked teachers, buildings or equipment.”
- The *Miller v. Korns* decision was also referenced by this Court in their 1979 decision in *Cincinnati School District Board of Education v. Walter* (58 Ohio St.2d 368), but the Court expanded the definition to say that the system could not be thorough and efficient if “a school district [were] receiving so little local and state revenue that the students were effectively being deprived of educational opportunity.”
- The Court reviewed evidence that some students were “making do in decayed carcass[es] from an era long passed” and other facilities were “dirty, depressing places” referring to the school buildings. Additionally, health situations involving carbon monoxide, asbestos, flooding and roach infestation were noted by the Court.
- Evidence was provided that many school districts within the state had insufficient funding to replace textbooks, leaving outdated or no textbooks for student use.
- Many school districts did not have sufficient funding to staff schools in order to comply with the state law requiring a district-wide average of no more than twenty-five students per classroom.
- The plaintiffs contend that their curricula and course offerings were limited in comparison to other wealthier districts.
- Based on the above issues of disparity, the Court decided that the existing system was neither thorough nor efficient.

**Legal Standard Used in Decision:**

The decision was based on the language of the State Education Clause, specifically the language “thorough and efficient.”

**Financial Concept Used in Decision:**

This decision was one of Horizontal Equity and Adequacy. The Adequacy component exists in that the Court reviewed the quality of education and facilities in various districts, with a focus on the existence of enough funding in the system to meet the minimum standards of adequacy. However, there is also a Horizontal Equity element because the Court addressed the issue of property poor districts being in worse shape than the wealthy districts, addressing the concept of differences in resources unrelated to educational need.



**Case Title:** *Dupree v. Alma* (279 Ark. 340)

**Full Citation:**

Supreme Court of Arkansas  
Jim DuPREE et al., Appellants  
v.  
ALMA SCHOOL DISTRICT NO. 30 of CRAWFORD COUNTY et al., Appellees

**State:** Arkansas

**Court:** Supreme Court of Arkansas

**Decision Date:** May 31, 1983

**Plaintiff Claims:**

- The plaintiffs contend that the public school financing system, specifically the Minimum Foundation Program and vocational funding, is in violation of the state constitutional right for equal protection.
- In general, the plaintiff claims were that because the state funding system is highly dependent on local tax revenue, there are great discrepancies with regard to available funds for education. They also contend that the funding system not only did not alleviate the issue, but instead worsened it.

**Decision:**

The Court found the state funding system for public education to be in violation of the Equal Protection mandate in the Arkansas State Constitution.

**Reasoning:**

- The hold-harmless policy allowed some districts to retain funding from the state at a rate unchanged while other districts were experiencing change, thus widening the effect of discrepancies.
- Under the state funding policy, prior to a district using state funds toward a vocational program, it must first establish the program with local funds.
- The Court reviewed the discrepancies in educational opportunities created by discrepancies in funding, noting that the primary factor in the discrepancies was property wealth of a district.
- The state pointed to the education clause requiring only a general, suitable, and efficient education, but the Court refocused on the idea of equity as defined by the Equal Protection Clause.
- The Court determined that there was no sound rational basis for the system that warranted the discrepancies it created, indicating that equity and local control are not mutually exclusive.

**Legal Standard Used in Decision:**

Although the State attempted to use the State Education Clause as the standard, the Court made its decision as a State Equal Protection decision.

**Financial Concept Used in Decision:**

This decision was based in the concept of Horizontal Equity because the focus was on the discrepancies created in fund distribution and availability based on factors external to educational need, namely property wealth.

**Case Title:** *Durant v. State of Michigan* (456 Mich. 175)

**Full Citation:**

Supreme Court of Michigan  
Donald DURANT, et al, Plaintiffs-Appellees,  
v.  
STATE of Michigan, et al, Defendants-Appellants.  
Gerald SCHMIDT, et al., Plaintiffs—Appellees,  
v.  
STATE of Michigan, et al., Defendants-Appellants.

**State:** Michigan

**Court:** Supreme Court of Michigan

**Decision Date:** July 31, 1997

**Plaintiff Claims:**

The Court saw five key questions as the core of this appeal:

1. Are special education and special education transportation state-mandated activities or services within the meaning of Article 9, 29?
2. Is the “state match” payment for school lunches part of the “state financed portion” for the purpose of compliance with Article 9, 29?
3. Are payments that are required of the state by Article 9, 29 “funds constitutionally dedicated for specific purposes” and exempt from executive order reduction under Const. 1963, Art 9, 32?
4. Are plaintiffs’ attorneys fees in this case part of the costs that may be recovered under Const. 1963, Article 9, 32?
5. What is the appropriate remedy for the violation of Article 9, 29 in this case?

**Decision:**

The decision was to support the lower court rule that certain components of the state funding system needed adjustments to be best in compliance with state taxation laws.

**Reasoning:**

- The Court addressed the relevant portions of the Headlee Amendment including the following:
  - Section 26 limits any changes in total state revenue to an amount based on changes in personal income in the state.
  - Section 31 prohibits units of local government from levying any new tax or increasing an existing tax above authorized rates without the approval of the unit’s electorate.
  - Section 25 prevents the shifting of taxation burden to local entities as a result of the limits placed at the state level.

#### The History of the Plaintiff Groups and the Appeals:

- The first case leading to this appeal was the *Durant* case which consisted of taxpayers who were residents of the Fitzgerald School District contending that the state was in violation of Article 9, 29 which requires maintenance of the state-finance proportion of the necessary costs of activities that state law orders the school district to perform.
  - The Court of Appeals ruled that elementary and secondary education as a whole was not a state-mandated activity, but more specific programs, such as special education, were.
- The second case leading to this appeal was the *Schmidt* case, which noted that some districts had seen a loss of funding from the year 1978-79, which they considered to be a violation of the standards set forth in the Headlee Amendment.
  - The Supreme Court determined that the base-year proportion would be computed on a state-wide level, and each district could count on that base level of support each year.
  - The Supreme Court remanded the *Durant* case to the Court of Appeals for reconsideration based in the *Schmidt* discovery.
- A third set of plaintiffs were folded into the case (plaintiffs making similar claims to those in *Durant* and *Schmidt*).

#### Regarding Special Education and Special Education Transportation:

- Defendants claim that because Special Education is a federal mandate, it does not also fall under the requirements of the Headlee Amendment regarding state mandates. The Court rejected that assertion.
- Defendants also claim that within the Court's Schmidt ruling, they had excluded federal mandates when they excluded the employer share of federal social security taxes for districts.
- The Court ruled that federal mandates are not exempted from the limitations set forth in the Headlee Amendment.

#### Regarding State-match for School Lunches:

- The State argued that participation in the school lunch program is voluntary in that schools only need participate if they desire federal funds.
- Additionally, the defendants argue that federal programs are not mandated by federal or state law and therefore do not fall under the restrictions of the Headlee Amendment.
- The Court ruled that the "State match" program must comply with the restrictions of the Headlee Amendment.

#### Regarding Executive Order Reductions:

- The Court determined that Article 9, 29 money is any money constitutionally dedicated for specific purposes, not specifically those earmarked.

#### Regarding Attorney Fees:

- The State argued that the Court of Appeals erred when allowing for attorney fees to be recovered from the previous *Durant* and *Schmidt* cases. The Court agreed with the Court of Appeals and did not find error in the decision.

Regarding Remedy:

- The Court found that the only viable remedy was declaratory relief coupled with monetary damages for the years 1991-1994.

**Legal Standard Used in Decision:**

This decision was based in the taxation requirements of the State Constitution.

**Financial Concept Used in Decision:**

This case was not grounded in equity or adequacy, but instead in compliance with state taxation requirements and limitations set forth that hindered school districts from having what they deemed their rightful funding.

**Case Title:** *Edgewood Independent School District v. Kirby* (777 S.W. 2d 391)  
(*Edgewood I*)

**Full Citation:**

Supreme Court of Texas  
EDGEWOOD INDPENDENT SCHOOL DISTRICT et al., Petitioners,  
v.  
William KIRBY et al., Respondents

**State:** Texas

**Court:** Supreme Court of Texas

**Decision Date:** October 2, 1989

**Plaintiff Claims:**

- The original plaintiff claims were that the vast disparities in per pupil funding across the districts in the state violated the state Equal Protection Clause as well as the State Constitution's mandate for an "efficient system of public free schools" as was outlined in the State Education Clause (Article VII, section I)

**Decision:**

- The Court overturned the Appeals Court decision and agreed with the trial court decision that the existing funding system was unconstitutional because it is "neither financially efficient nor efficient in the sense of providing for a general diffusion of knowledge statewide, and therefore that it violates Article VII, section I of the Texas Constitution."
- The Supreme Court disagreed with the Court of Appeal, and determined that the issue of "efficiency" in a funding system for schools was justiciable.

**Reasoning:**

- The Court of Appeals made the determination that the issue of "efficient" schooling was a legislative decision and thus was not justiciable.
- The State contended that the framers intended "efficient" to mean simple and inexpensive. The Court disagreed, indicating that efficient means "effective and productive and connotes the use of resources so as to produced results with little waste," noting that framers had used the term "economical" elsewhere in the Constitution, and had they simply meant "inexpensive," they would have repeated the use of that term.
- The Court concluded that the framers did not intend for disparities to develop and if the state had grown at equal rates in equal economic situations, the issue would not exists, but because growth does not happen that way, an imbalance existed, which no longer met the constitutional requirement of efficiency.

**Legal Standard Used in Decision:**

- The Court made its decision regarding constitutionality based on the Education Clause of the State Constitution.

**Financial Concept Used in Decision:**

- The plaintiffs original claims and the Supreme Court of Texas's final decision were ones of Horizontal Equity because the issue at hand was one of funding disparities or inequities unrelated to educational need.

**Case Title:** *Edgewood Independent School District v. Kirby* (804 S.W. 2d 491)--*Edgewood II*  
**Full Citation:**

Supreme Court of Texas  
EDGEWOOD INDEPENDENT SCHOOL DISTRICT et al., Petitioners,  
v.  
William KIRBY et al., Respondents

**State:** Texas

**Court:** Supreme Court of Texas

**Decision Date:** January 22, 1991

**Plaintiff Claims:**

- The plaintiffs in *Edgewood II* appealed to the state Supreme Court that the District Court exceeded its authority by vacating the Supreme Court injunction. The State issued a cross-appeal that the District Court erred in finding the new legislation unconstitutional. Defendant intervenor districts challenged the Court's authority to consider the issues.

**Decision:**

The Court determined that the revised public school finance system continues to violate article VII, Section I of the Constitution.

**Reasoning:**

History (*Edgewood I*):

- This case was a follow-up to the decision in *Edgewood I* finding the state funding system to be unconstitutional and setting a deadline of May 1, 1990, for the legislature to conform to the Constitution or funding of public schools would cease.
- The District Court extended the deadline to allow the Legislature to complete work on Senate Bill 1. The original *Edgewood I* plaintiffs returned to District Court, seeking a decision that Senate Bill 1 remained an unconstitutional funding system for public schools. The District Court agreed, but vacated the Supreme Court's injunction and denied any other form of enforcement.

Regarding Justiceability:

- The Court reviewed its authority to hear appeals unless there is a "change of conditions."
- The Court determined that there had not been a change of conditions since *Edgewood I*; thus, the District Court's decision was appealable to the Supreme Court.
- The Court also referenced that they had created a mandate in *Edgewood I*; it was the Supreme Court's Duty to enforce its own mandates.

Regarding the Constitutionality of the New Legislation:

- The Court determined that the only difference since *Edgewood I* was the details of Senate Bill 1, which was designed to shift State contributions to the bottom ninety-five percent of the state's districts in an effort to better equalize.
- The Court determined that Senate Bill 1 did not do any of the following things that would be necessary to make the funding system constitutional:



- Remedy the major causes of the wide opportunity gaps between rich and poor districts.
- Change the boundaries of any of the current 1052 school districts.
- Change the basic funding allocation which has one half of all education funds coming from local property taxation.
- Does not attempt to equalize access to funds across districts.
- The Court also determined that under the new funding system that the 170,000 students in the wealthiest districts are supported from the same level of tax base as the 1,000,000 students in the poorest districts.
- Senate Bill 1 provided for future Legislatures to consider tax base consolidation, but the District Court indicated that would not be constitutional. The Supreme Court notes in this decision that the Constitution does not prevent tax base consolidation as a means for equalizing school funding across the state.

Regarding the District Court's Decision to Extend the Deadline of the Injunction:

- The Court determined that the District Court had abused its power in making such a decision.
- Because the deadline of the original injunction had passed, the Court set a new date of April 1, 1991, and ordered the District Court to comply.

**Legal Standard Used in Decision:**

- The Court made its decision regarding constitutionality based on the Education Clause of the State Constitution.

**Financial Concept Used in Decision:**

- Like *Edgewood I*, the decision in *Edgewood II* was one of Horizontal Equity because the issue at hand was one of funding disparities or inequities unrelated to educational need.

**Case Title:** *Carrollton-Farmers Branch Independent School District v. Edgewood independent School District* (826 S.W. 2d 489)---*Edgewood III*

**Full Citation:**

Supreme Court of Texas  
CARROLLTON-FARMERS BRANCH INDEPENDENT SCHOOL DISTRICT, et al.,  
Appellants.  
v.  
EDGEWOOD INDEPENDENT SCHOOL DISTRICT, et al, Appellees.

**State:** Texas

**Court:** Supreme Court of Texas

**Decision Date:** January 30, 1992

**Plaintiff Claims:**

- The appellants claimed that the revision to the state school finance system as outlined in Senate Bill 351 violated the state constitution for three reasons:
  1. That it levied a state ad valorem tax in violation of article VIII, section 1-e;
  2. That is levied an ad valorem tax without approval of the voters in violation of article VII, section 3; and
  3. That it created county election districts in violation of Article VII, section 3 and Article III, sections 56 and 64(a).

**Decision:**

- Regarding claim number one, the Court determined that Senate Bill 351 did levy a state ad valorem tax in violation of Article VIII, section 1-e.
- Regarding claim number two, the Court determined that Senate Bill 351 levied an ad valorem tax without an election in violation of Article VII, section 3.
- Regarding Claim number three, the Court determined that it was within the power of the Legislature to create CED's.

**Reasoning:**

- The burden of evidence was on the appellants because state statutes are presumed to be constitutional.
- Senate Bill 351 is a two-tier funding formula that includes a mandate that County Education Districts (CEDs) levy an ad valorem tax rate to raise the local share of the state funding formula.
- Between the Edgewood I decision and this appeal, the formula has changed from encouraging local districts to contribute local tax revenue to making state funds contingent on such a contribution (without a local vote).
- Article VIII, section 1-e of the Texas Constitution reads, "No State ad valorem taxes shall be levied upon any property within this State." The Court found Senate Bill 351 to be in violation of this Constitutional provision because CED's are mandated to levy, and no CED can decline the levy.

- The State contended that the tax is not in violation because each CED sets the rate to create the yield necessary. The Court, however, found that to be a *de facto* rate mandate based on the set formula.
- The State contended that because the CED's manage their own collection of funds, the tax is not a state tax. The Court described the CED's as "mere puppets" of the State, refuting the claim.
- The Court interpreted Article VII, Section 3 to "condition the imposition of a local ad valorem tax upon the approval of the electorate."

**Legal Standard Used in Decision:**

The legal standard here was one of State Constitutionality, but not within the Education Clause. Instead, the decision was based on taxation limitations as outlined in the Texas Constitution.

**Financial Concept Used in Decision:**

Senate Bill 351 was designed in response to an original decision in Edgewood I and II that of Horizontal Equity because the focus is on inequities between districts based on criteria other than educational need.

**Case Title:** *Edgewood Independent School District v. Meno* (917 S.W. 2d 717)---*Edgewood IV*  
**Full Citation:**

Supreme Court of Texas  
EDGEWOOD INDEPENDENT SCHOOL DISTRICT et al., Alvarado Independent School District et al., Guadalupe Gutierrez et al., Carrollton-Farmers Branch Independent School District et al., Coppell Independent School District et al., Sterling City Independent School District et al., Stafford Municipal School District et al., Humble Independent School District et al., and Somerset Independent School District et al., Appellants,  
v.  
Lionel R. MENO et al. and Bexar County Education District et al., Appellees

**State:** Texas

**Court:** Supreme Court of Texas

**Decision Date:** January 30, 1995

**Plaintiff Claims:**

- Multiple groups of appellants exist:
  - Two groups of appellants are composed of property-poor school districts who have issue with the efficiency of Senate Bill 7.
  - Five groups are comprised of property-rich districts concerned primarily with the revenue system within Senate Bill 7.
  - The State is appealing the district court's ruling that Senate Bill 7 does not account well enough for facilities.
  - The Guadalupe Gutierrez group is appealing the district court's dismissal of its cause of action.
  - The Somerset Independent School District raises concerns regarding the distribution of excess CED funds.

**Decision:**

- The Court determined that all parties contending that Senate Bill 7 was unconstitutional had not met the burden of proof necessary for the Court to rule as such. Thus, the ruling was that Senate Bill 7 met all constitutional requirements challenged.

**Reasoning:**

- The Court began with the presumption that Senate Bill 7 is constitutional; the burden of proof falls to those claiming it is not.
- The Court reviewed the basic tenant of Senate Bill 7. It is a Two-tier foundation funding system. Tier 1 is intended to provide sufficient funding for all school districts to provide a basic program. Tier 2 is designed to provide districts with the opportunity to supplement the basic program at a level of its choosing with additional funding for facilities.
- Unlike previous Two-tier systems presented to the Court, Senate Bill 7 contains a cap on a school district's taxable property at a level of \$280,000 per student.

- The property-poor districts asserted that Senate Bill 7 does not meet the standard of “efficient” as outlined in the Constitution and prior *Edgewood* decisions. The Court determined that the accountability regime within Senate Bill 7 meets the standard of efficiency. Additionally the court noted that under Senate Bill 7 the discrepancy between the richest and poorest districts would go from a 700:1 ratio to a 28:1 ratio.
- The property-rich appellants claim that the legislature created standards for measuring suitability and failed to meet its own standards. The Court rejected this argument, noting that the Legislature’s funding obligations are generally limited to what it appropriates, regardless of what it promises in other statutes.
- The property-rich districts also claim that Senate Bill 7 creates a state ad valorem tax in violation of the State Constitution. The Court noted that the structure within Senate Bill 7 closely matches one it outlined as being within the realm of legal possibilities in their *Edgewood III* decision.
- The property-rich districts also argue that Senate Bill 7 violates the standards set for the in *Love v. City of Dallas* (120 Tex. 351), claiming that it requires districts to spend money on nonresident students. The Court determined that Senate Bill 7 was not in violation of the principles set forth in *Love v. City of Dallas*.
- The property-rich districts also contend that Senate Bill 7 violates state regulations regarding lending of credit or grant of public money. The Court determined that no public money would be lent or transferred for private purpose so Senate Bill 7 was within the framework of the law regarding transfer of public funds.
- The Carrollton-Farmers appellants claim that Senate Bill 7 was an unconstitutional delegation of power to the Commissioner of Education. The Court determined that the bill kept Commissioner powers within the range of those that can be delegated by the legislature.
- The Carrollton-Farmers branch claims that the Commissioner of Education was provided inappropriate judicial review powers under Senate Bill 7. The Court determined that such a claim was premature and needed to be attached to an actual decision put forth by the Commissioner.
- The Carrollton-Farmers branch asserts that redistribution of property could hinder a district’s ability to repay its bonded indebtedness. The Court did not find creditability in that claim.
- A couple of appellant groups claim that the potential of property’s being detached from one district and given to another might cause excessive noncontiguity. The Court noted that there was no constitutional obligation for contiguity for an entity to be called a district.
- The Sterling and Crocket appellants claim that Senate Bill 7 violates the state requirement that taxes on property be paid “in the county where situated.” The Court notes that when detached property is reassigned, it is considered to be within the receiving district. Thus, the Court did not find a violation of this law.
- The Guadalupe Gutierrez appellants assert that the district court erroneously dismissed their claim as non-justiciable. They assert they have a constitutional right to select the schools of their choice and receive reimbursement. The Supreme Court determined that the District Court made the correct decision because it is not the judicial branch’s role to build or allow a specific structure for the school system.

- Senate Bill 7 eliminated previously established CED's and required that the remaining funding be distributed in a specified manner. The Somerset districts challenged how the following were resolved: excess funds, delinquent taxes, and the designation of successors-in-interest. The Court found that the duties delegated to the Commissioner of Education in these three areas were both legal and appropriate.

**Legal Standard Used in Decision:**

- The legal standards used by appellants were based in the State Constitution, but with the exception of the property-poor districts efficiency claim, they were not based on the State Education Clause but instead on taxation and property laws within other areas of the Constitution.

**Financial Concept Used in Decision:**

- The claims by the appellants are based in a general concept of Horizontal Equity. Senate Bill 7 was crafted to address Horizontal Equity issues, and appellant claims are focused on the legalities of various components of Senate Bill 7.

**Case Title:** *Fair School Finance Council of Oklahoma, Inc. v. State* (746 P.2d 1135)

**Full Citation:**

Supreme Court of Oklahoma  
FAIR SCHOOL FINANCE COUNCIL OF OKLAHOMA, INC and Oklahoma Corporation, et  
al.,  
Plaintiffs—Appellants,  
v.

STATE of Oklahoma; George Nigh, Governor of the State of Oklahoma; Leslie R. Fisher, State Superintendent of Public Instruction; State Board of Education: Harry Shackelford, Jack Mace, Seay Sanders, Dr. C.B. Wright, R.E. Carleton, and E.L. Collins, members of the State Board of Education; and Leo Winters, Treasurer of the State of Oklahoma, Defendants—Appellees, and Independent School District No. 1 of Alfalfa County, Oklahoma, et al., Intervenor—Appellees.

**State:** Oklahoma

**Court:** Supreme Court of Oklahoma

**Decision Date:** November 24, 1987

**Plaintiff Claims:**

The plaintiffs sought a judgment declaring that the method of financing public education violated the U.S. and State Constitutions because the system failed to provide “equal educational opportunities” for all children in the state. Specifically, plaintiffs claim that opportunities are “materially inferior”; thus, the Court determined that the plaintiff request was for equal revenues per ADA.

**Decision:**

The Court ruled that neither the United States Constitution nor the Oklahoma State Constitution requires a funding system that provides equal expenditures per child.

**Reasoning:**

Regarding the Education Language in the State Constitution:

Article I, Section 5 reads: “Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the state and free from sectarian control; and said schools shall always be conducted in English, provided, that nothing herein shall preclude the teaching of other languages in said public schools.”

Article 13, Section 1 reads: “The Legislature shall establish and maintain a system of free public schools wherein all the children of the State may be educated.”

Regarding the Funding Mechanisms and State Constitution:

- The Court noted that because property taxation is a primary lever in the funding mechanism, there is significant difference in the amount of per pupil revenue that can be raised by various districts based primarily on property wealth of those districts.
- The plaintiff districts were levying the maximum allowed by law but were still unable to reach the revenue per pupil of the property wealthy districts in the state.

- In addition to the impact on levy and operating revenue, property value of a district impacts the amount of bond indebtedness a district can incur for maintenance and growth in facilities.
- The Court noted the Incentive Aid component of the funding system, which sets minimum and maximum amounts a district can receive in ADA, was designed as a form of equalizer for districts.
- In addition to recognizing differences in property wealth, the plaintiffs contend that the county assessors had not employed a standard method in valuing property in various counties. The Court noted that the assessors were not listed as parties in the case; thus, that line of reasoning was not acknowledged further by the Court.
- Regarding plaintiff concerns with a state ad valorem tax, the Court had determined in previous, non-education-based cases that unless the tax is created with the purpose of creating inequities, it may be constitutionally permissible.

**Regarding a Potential Federal Equal Protection Violation:**

- Citing *San Antonio v. Rodriguez* (411 U.S. 1), the Court determined that the plaintiff claims did not create an Equal Protection violation.

**Regarding a Potential State Due Process (Equal Protection) Violation:**

- The Court felt the need to answer the issue of if the mere mention of a subject in the constitution makes that subject a fundamental interest or creates a fundamental right?
- The Court was willing to assume that education in general is a fundamental interest, but then was faced with the question, what is the exact nature of the interest guaranteed?
  - Citing their previous decisions (*Miller v Childres* (107 Okl. 57) and *School District No 25 of Woods County v. Hodge* (199 Okl. 81)), the Court indicated that a standard of a “minimum educational program for all children of the state” was the threshold.
  - The Court determined they could not find a plaintiff issue in which a child was not receiving an adequate basic education.

**Legal Standard Used in Decision:**

The Court ruled on all three standards of State and Federal Equal Protection and the language of the State Education Clause.

**Financial Concept Used in Decision:**

This case was an example of Horizontal Equity because the primary question at hand is if something other than educational need were creating a disparity in educational funding; specifically questioned in this case was property wealth as a factor in the funding mechanism,



**Case Title:** *Helena Elementary School District No. 1 v. Montana* (769 p.2d 684)

**Full Citation:**

Supreme Court of Montana  
HELENA ELEMENTARY SCHOOL DISTRICT NO. 1 and High School School District No. 1  
and Lewis and Clark County; Billings Elementary School District No. 2 and High School School  
District No. 2 of Yellowstone County, et al., Plaintiffs and Respondents,  
and  
Montana Education Association, et al., Intervenor/Plaintiffs and Respondents,  
v.  
The STATE of Montana; and The Montana Board of Public Education ; and The Montana  
Superintendent of Public Instruction, Defendants and Appellants and C.J. Holje, Bernt Ward and  
Robert Frederick on behalf of the residents and taxpayers of Sheridan County, Montana and all  
others similarly situated, Intervenors/Defendants and Appellants. Hays-Lodge Pole Elementary  
School District No. 50 and High School District No. 50, and Blaine County, et al. and the  
Association of Indian Impact Schools of Montana, Intervenor/Defendants and Appellants.

**State:** Montana

**Court:** Supreme Court of Montana

**Decision Date:** February 1, 1989

**Plaintiff Claims:**

The plaintiff school districts contended the funding system in the State violated Article X of the State Constitution. Additionally, they sought for a ruling that federal funds could not be figured into the formula for Indian schools.

**Decision:**

The Court ruled:

1. The system of funding violated the constitutional guarantee of equal educational opportunity;
2. Accreditation standards did not establish the state's obligation under constitutional guarantees;
3. Federal funding to schools which serve children on Indian lands may not be taken into account in school funding formula unless the Secretary of Education has approved the states equalization system; and
4. School districts were not entitled to attorney fees.

**Reasoning:**

Regarding Article X (The Education Article)

- The Court noted trial evidence that between districts within the state there were significantly large differences in “educationally relevant factors” and that the wealthier school districts were not spending on frills or unnecessary educational expenses.
- Additionally, the Court noted un rebutted testimony that the funding system falls significantly short of meeting the costs of complying with accreditation standards.

- The defendants contend that the phrase “equality of educational opportunity” in Subsection 1 of Article X, Section 1 was merely an “aspirational goal.”
  - The Court disagreed, indicating that the framers had used the word goal in a previous part of the section and would have reused it in this context if that had been the intent.
- Additionally, the State suggested that the last sentence of the Article which addresses equal distribution of funds limited the state responsibility regarding adequacy.
  - The Court ruled that the sentence is not a limiting provision on the guarantee of equal educational opportunity found within the earlier subsection of Section 1.
- The State suggested that student outcomes is a better means of measuring educational opportunity, but the Court did not find that argument to be convincing.
- The State made the contention that local control of school districts mandates spending disparities.
  - The Court noted that the spending disparities were not based in decisions of local control, but in a state funding scheme that was out of the control of local districts.

#### Regarding Accreditation as a Standard of Quality Education

- The Board of Education objected to the lower court’s ruling that the state accreditation standards are merely minimums from which a quality education should be built.
- The Court ruled that the lower court had ruled correctly but did soften some of the language.

#### **Legal Standard Used in Decision:**

This case was one decided based on the State Education Clause.

#### **Financial Concept Used in Decision:**

This was a case of Horizontal Equity as the question was if factors, other than educational need, were affecting the availability of education funds.

**Case Title:** *Horton v. Meskill* (172 Conn. 615)—*Meskill I*

**Full Citation:**

Supreme Court of Connecticut  
Barnaby HORTON et al.  
v.  
Thomas J. MESKILL et al.  
Peter D. GRACE  
v.  
Thomas J. MESKILL et al.

**State:** Connecticut

**Court:** Supreme Court of Connecticut

**Decision Date:** April 19, 1977

**Plaintiff Claims:**

The original plaintiffs were seeking four actions from the high Court:

1. A declaratory judgment that the system of financing public elementary and secondary education in the state violates the Connecticut and U.S. Constitutions;
  2. An order in equity directing the defendants to cease implementing the present financing system;
  3. An order that the court retain jurisdiction to assure a transition with all deliberate speed to a constitutional system of financing public schools; and
  4. Any other equitable relief the court should deem proper.
- The plaintiffs contend the Connecticut Constitution lists education as a fundamental right; and, thus, strict scrutiny should be applied under a review of the Equal Protection Clause of the State Constitution.

**Decision:**

The Court ruled that the existing state system of funding public schools did not pass the Equal protection strict scrutiny test and was unconstitutional.

**Reasoning:**

- The Court first addressed the idea that this type of suit may not be valid under the concept of sovereign immunity. The Court determined that sovereign immunity cannot protect a leader if a party claims he took property from them in an unconstitutional manner. The Court ultimately determined that the trial court did not err in determining that sovereign immunity was not available because of the public interest at stake.
- In comparing the breakdown of where funding came from, the Court noted that in Connecticut, the break down was 705 local, twenty to twenty-five percent state and about five percent federal in comparison to the national breakdown of fifty-one percent local, forty-one percent state and eight percent federal.

- The Court reviewed facts that indicated that taxpayers in property-poor towns pay higher tax rates than those in property-wealthy towns. Additionally, the higher tax rates generate lower revenues for those schools.
- The following were indicated as criteria for “quality of education in a town”; the Court noted that many of them are strongly attached to higher per pupil expenditures:
  - Size of classes
  - Training, experience and background of teaching staff
  - Materials, books and supplies
  - School philosophy and objectives
  - Type of local control
  - Test scores as measured against ability
  - Degree of motivation and application of the students
  - Course offerings and extracurricular activities
- The Court noted that the state ranked fiftieth in the nation with regard to efforts to equalize fund distribution for state-wide schools.
- The lower Court had accounted for efforts from the General Assembly to improve the situation, but found it only created a flat grant of \$35 per pupil, which did not amount, in the Court’s eyes, to a significant or meaningful improvement.
- The lower Court had ruled based on the facts that “the State Board of Education has consultants available who concern themselves with assisting local boards of education in maintaining the statutorily-mandated minimum quality of education” and “Canton is providing the basic elementary and secondary education required by statute.”
- The Court cited *San Antonio V. Rodriguez* (411 U.S. 1), *Robinson v. Cahill* (62 N.J. 473), and *Serrano v. Priest* (18 Cal. 3d 728) and determined that “in Connecticut the right to education is so basic and fundamental that any infringement of that right must be strictly scrutinized.”

**Legal Standard Used in Decision:**

This decision was based on a strict scrutiny of the State Equal Protection Clause.

**Financial Concept Used in Decision:**

This was a decision of Horizontal Equity because it was based on the idea that differences other than educational need, namely property wealth, were affecting funding for districts.

**Case Title:** *Horton v. Meskill* (195 Conn. 24)—*Horton II*

**Full Citation:**

Supreme Court of Connecticut.  
Barnaby HORTON et al.  
v.  
Thomas J. MESKILL et al.  
Peter D. GRACE et al.  
v.  
Thomas J. MESKILL et al.

**State:** Connecticut

**Court:** Supreme Court of Connecticut.

**Decision Date:** January 15, 1985

**Plaintiff Claims:**

The plaintiffs from *Horton I* are re-challenging the state funding system based on changes made by the General Assembly that had been made in response to the Court's ruling in *Horton I*.

**Decision:**

- Because the trial court had used what the Supreme Court determined to be the incorrect standard in its ruling, the Court remanded the case back to trial court for consideration under the standard of strict scrutiny and indicated that relief should be outlined by the trial court if, using the proper standard, the current funding system were considered unconstitutional.

**Reasoning:**

- In response to *Horton I*, the General Assembly had enacted in 1979 the Public Acts 1979, No 79-128 which included a guaranteed tax base grant (GTB) formula and a minimum expenditure requirement. The lower court determined that that created a constitutional funding system. However, the lower court also concluded that the effects of the 1979 legislation were being undermined by post-1979 legislation that was allowing the implementation of the GTB to be postponed.
- The Court first felt the need to address the constitutionality of the GTB plan as originally enacted by Public Acts 1979 No 79-128.
  - The Court reiterated from *Horton I* that strict scrutiny was the appropriate standard to utilize.
  - The court noted that this had not been the standard used by the trial court in this case.
  - The Court ruled that Public Acts 1979, No. 79-128 were constitutional (meeting the strict scrutiny test) as originally drafted and approved by the General Assembly.

- Plaintiffs had originally requested from the lower court that a mandate of fifty percent state funding be applied, but both the lower Court and the state Supreme Court indicated that a flat percentage would not effectively resolve equity issues.
- Plaintiffs had contended that the lower court was out of its jurisdiction by ruling that a state mandated curriculum replace local curricula. The Supreme Court did not end up ruling on this issue because the General Assembly had since passed law mandating the state curriculum.

**Legal Standard Used in Decision:**

Part two of this case was focused on a State Equal Protection claim.

**Financial Concept Used in Decision:**

This case was an extension of *Horton I*, which was an example of Horizontal Equity being considered.

**Case Title:** *Hull v. Albrecht* (190 Ariz. 520)

**Full Citation:**

Supreme Court of Arizona, En Banc.  
Governor Jane Dee HULL, Intervenor/Petitioner.  
v.

Hon. Rebecca A. ALBRECHT, Judge of the Superior Court of the State of Arizona, Respondent Judge, and ROOSEVELT ELEMENTARY SCHOOL DISTRICT NO. 66 et. al; Lisa Graham Keegan, Superintendent of Public Instruction; State Board of Education; State of Arizona, Real Parties in Interest.

**State:** Arizona

**Court:** Supreme Court of Arizona, En Banc.

**Decision Date:** December 23, 1997

**Plaintiff Claims:**

This case is a request by the Governor for the Court to issue a ruling that the recent amendments to Arizona's school funding system created a system in compliance with the Court's mandate in *Roosevelt Elementary School District v. Bishop* (179 Ariz. 233).

**Decision:**

The ruling was that the most recent legislation (the ABC Fund) did not bring the state funding system to be in compliance with the mandate from *Roosevelt Elementary School District v. Bishop* (179 Ariz. 233), and, thus, the funding system remained unconstitutional.

**Reasoning:**

- In *Roosevelt Elementary School District v. Bishop* (179 Ariz. 233), the Court ruled that the existing funding system at the time was not constitutional because it relied heavily on local property taxation and arbitrary district boundaries creating unjust disparities.
- In 1996 the legislature made amendments to the funding system, but kept the general scheme in place—thus, the lower court had ruled the amendments insufficient to meet the mandates of *Roosevelt*.
- In 1997, the legislature amended the system again with what was called the Assistance to Build Classrooms Fund (ABC Legislation)—the lower court again ruled the changes insufficient to meet the mandate; the governor responded by filing this petition to the Supreme Court.
- Regarding the ABC Legislation:
  - The ABC Fund would put into the system \$32.5 million in the first year and would be distributed based on weighted student count to account for growth.
  - The ABC fund required a reduction of the distribution amount based on one of two deductions (assessed value deduction or the equalization assistance percentage deduction).
  - The ABC funding was earmarked for capital expenditures and could be spent or saved annually.

- The ABC Fund also creates bottom and top caps on local bonding for capital projects.
- The Governor indicates that the highest rate of disparity under the new system would be 4:1. The defendants dispute that ratio, contending it would be closer to 12:1.
- The Court determined that the ABC legislation dealt inadequately with the symptoms and did not address the core problem of heavy reliance on district property taxation with unequalized districts.
- The Court also noted that the ABC legislation did not meet the standard set in *Roosevelt* because the dollar amount chosen to cure inadequacies in public school was arbitrary and bore no relation to actual need.

**Legal Standard Used in Decision:**

This was an extension of a case using the State Education Clause as the legal standard.

**Financial Concept Used in Decision:**

This was an extension of a case using Horizontal Equity as a standard because the focus was on disparities in funding unrelated to educational need.



**Case Title:** *Kukor v. Grover* (148 Wis.2d 469)

**Full Citation:**

David J. KUKOR, Christopher A. Kukor, Glen W. Kukor, Mark Czerwinski, Renee Czerwinski, Jean Czerwinski, Jill Czerwinski, Eric Czerwinski, David Czerwinski, Dieter Czerwinski, Julie Harling, Pamela Harling, Stephanie Harling, Eric Bates, David Bates, Douglas Bates, Paulette M. Eddie, Percy E. Eddie, Lillian A. Eddie, Patrick O. Eddie, Antrice L. Eddie, Martha Swigart, Kristen Kreuzer, Richard Kreuzer II, Amalia Kreuzer, Jenny Tooley, Henry Brumirski, Terrence Brumirski, Denise Swiderski, Barbara Tibbits, Todd Tibbits, Timothy Tibbits, and Vickie Tibbits, minor residents of the City and County of Milwaukee, State of Wisconsin, behalf of themselves and all other children in the City and County of Milwaukee similarly situated; Cynthia Broydrick, Brian Czerwinski, Harry A. Morris, Mary J. Morris, Joseph Bates, William James, Velma James, Stephen Swigart, Frances Swigart, Richard Kreuzer, Susan Kreuzer, Russell R. Tooley, Mary Tooley, Dominik Brumirski, Arleen Brumirski, John Swiderski, Betty Swiderski, Benjamin Tobbits, and Jean Tibbits, adult residents of the City and County of Milwaukee, State of Wisconsin, on behalf of themselves and all other parents in the City and County of Milwaukee similarly situated; Lois Riley, Margaret Dinges, Michael Elconin, Gerald P. Farley, Stephen Jesmok, Jr., Peggy Kenner, James F. Koneazny, Marian McEvelly, Edward S. Michalski, Lawrence J. O'Neil, Lorraine M. Radtke, Doris Stacy, Leon W. Todd, Jr. Henry W. Maier, Roy B. BAors, John R. Kalwitz, Sandra Hoech, Kevin D. O'connor, Rod Lanser, Ben E. Johnson, Robert M. Weber, Wayne P. Frank, James Kondziella, Betty Voss, Joan Soucie, Clifford A. Draeger, Robert L. Spaulding and Gerogory G. Gorak, as taxpayers and residents of Milwaukee, Plaintiffs—Appellants. Rochelle Betjia, James Blask, Jennifer Giradot, Debbie Narloch, Kevin O'Connell, and David Walsh, minor residents of the West Allis-West Milwaukee and City of Wauwatosa School Districts, Cities of West Allis, West Milwaukee, and Wauwatosa, State of Wisconsin, on behalf of themselves and all other children in the state similarly situated; Ilsa Ehlert, Robert A. Giaeck, Philip Jrold, Paule A Kolff, Craig Larson, Michael J. Piasecki, and Lois Weber, adult residents of West Allis-West Milwaukee and City of Wauwatosa School Districts, Cities of West Allis, West Milwaukee, and Wauwatosa, State of Wisconsin, on behalf on themselves and all other taxpayers in the state similarly situated; Gordon J. Bethia, James F. Blask, David A. Giradot, Catherine Narloch, Joyce O'Connell, and Roger Walsh, adult residents of West Allis-West Milwaukee and City of Wauwatosa School Districts, Cities of West Allis, West Milwaukee, and Wauwatosa, State of Wisconsin, on behalf on themselves and all other parents in the state similarly situated, Plaintiff-Intervenors-Appellants,

v.

Herbert GROVER, Wisconsin Superintendent of Public Instruction, Wisconsin Department of Instruction, Charles P. Smith, Treasurer of the State of Wisconsin, W. Michael Ley, Secretary of the Wisconsin Department of Revenue, and Wisconsin Department of Revenue, Defendants-Respondents.

**State:** Wisconsin

**Court:** Supreme Court of Wisconsin

**Decision Date:** February 22, 1989

**Plaintiff Claims:**

The plaintiffs make two claims. The first claim is that the state's school funding system violates the education clause of the Wisconsin State Constitution, specifically Article X, Section 3, which reads, "[T]he legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable..." The second claim is that the school finance system violates the equal protection provision in Article I, Section I of the Wisconsin State Constitution.

The plaintiffs contend that while the state funding system creates a system of the "same," in fact, more is necessary for some students to have the same. Plaintiffs argue that "children have differing educational needs, some of which may, as a result of socioeconomic factors, require greater financial resources to achieve the same level of educational opportunity." *Kukor v. Grover* (148 Wis.2d 469). Additionally, "it is argued that those districts with the greatest educational burden are the least capable of raising sufficient financing from property taxation as a result of lower property valuations or 'municipal overburden' placing greater tax demands upon the property" *Kukor v. Grover* (148 Wis.2d 469).

**Decision:**

- The Court upheld the trial court's decision that the existing system did not violate Article X, Section 3 of the Wisconsin State Constitution.
  - In reviewing the current funding formula, the Court determined that the equalization formula allows for the districts in question to meet state standards of "character of instruction," and in fact have claimed improvement in some basic educational programs. Therefore, the Court determines that there is no constitutional violation of Article X, Section 3 of the Wisconsin State Constitution.
- Regarding the Equal Protection Provisions claim, the Court used the "rational basis" standard and found that maintaining local control of education was a rational basis for the existing funding formula. Additionally, the Court noted that no plaintiff was indicating a denial to the right to attend school; therefore, they found no Equal Protection violation.

**Reasoning:**

- The Court reviews the funding formula, specifically the concept of a Guaranteed Tax Base (GTB) which is designed to cause some level of equalization. The Court explains that without such equalization, the equalized valuation per member would vary from \$77,927 to \$988,561, but that the GTB of \$270, 100 helps to ensure that districts have a minimal level of funding and that the existence of a secondary tier of funding helps to equalize funding as well. The result is a system in which districts that spend at the same level may tax at the same level, regardless of their assessed property valuation.
- The Court reviews the phrase "as nearly uniform as practicable" from three standpoints: the plain meaning of the words in context, a historical analysis of practices in 1848 with an inference of framers' intent, and previous interpretations of the law.
  - The Court considers their decision in *Buse* (74 Wis2d.568) in which the Court rejects the contention that absolute uniformity was necessary as it previously considered the negative aid provision. The plaintiffs contend this case is a different matter because it deals with funding the educational needs at the "lower

end of the spectrum.” *Kukor v. Grover* (148 Wis.2d 469). The Court agrees that *Buse* is not determinative in this case and proceeds to the other two standpoints for review.

- In considering the historical debates and framers’ intent in the wording of Article X, Section 3, the Court reviews testimony that framers had no original consideration for adequacy of school funding, and, in fact, felt there would be surplus funding in the school fund; therefore, the assumption must mean that the framers intended equity as a focus. Additionally, the Court reviewed that the original intent was for one-third of the school fund to be raised through local taxation of property.
- With regard to the Equal Protection Claim, the plaintiffs contend that equal opportunity for education is a fundamental right, and, thus, the strict scrutiny standard should be applied instead of the rational basis standard. The Court indicates that in order for strict scrutiny to be used, a suspect class must exist, not just a fundamental right. The Court uses *Rodriquez* (411 U.S. 1) as a basis for rejecting the claim that wealth is a “suspect class,” but agrees with the plaintiffs that “equal opportunity for education” is a fundamental right” *Kukor v. Grover* (148 Wis.2d 469). However, the Court determines that education being a “fundamental right” does not mandate absolute equality in districts’ per pupil expenditures. In fact, such complete equalization is constitutionally prohibited to the extent that it would necessarily inhibit local control” *Kukor v. Grover* (148 Wis.2d 469).
- The Court indicates it will allow the legislature to determine the level of practicability of a funding system.
- The Court also notes that recent legislation enacted addresses some of the plaintiffs’ concerns, specifically acts focused on early intervention for at-risk students and minority student assistance programs.

### **Legal Standard Used in Decision:**

Article X, Section 3 of the Wisconsin State Constitution: “The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years.”

Equal Protection Provision with Article I, Section I of the Wisconsin State Constitution: “All people are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted, deriving their just powers from the consent of the governed.”

### **Financial Concept Used in Decision:**

The plaintiffs’ claims were Vertical Equity claims as they contend that same is not equal, but that students and districts with higher needs require more financial inputs to reach the same level of education as their more fortunate peers. The plaintiffs’ claims do not reach the level of vertical equity as adequacy because there is no discussion of a certain standard, beyond basic educational needs, being set for each student.

**Case Title:** *Lake View School District No. 25 of Phillips County v. Huckabee (351 Ark 31)*

**Full Citation:**

Supreme Court of Arkansas  
LAKE VIEW SCHOOL DISTRICT NO. 25 of PHILLIPS COUNTY, Arkansas, et al.,  
Appellants  
v.  
Governor Mike HUCKABEEE; Senator Mike Beebe, President Pro Tempore of the Senate;  
Representative Shane Broadway, Speaker of the House; State Auditor Gus Wingfield; State  
Treasurer Jimmie Lou Fisher; Director of Arkansas Department of Education Raymond Simon;  
Arkansas State Board of Education Members Luke Gordy, William Fisher, Jonell Caldwell,  
Anita Yates, Lewis Thompson, Claiborne Deming, Richard Smith, Betty Pickett, Robert  
Hackler, and Shelby Hillman; and Director of the Arkansas Department of Finance and  
Administration Richard Barclay, Appellees; and Rogers School District No. 30 and Bentonville  
School District No. 6, and Little Rock School District of Pulaski County, Intervenors, Appellees.

**State:** Arkansas

**Court:** Supreme Court of Arkansas

**Decision Date:** November 21, 2002

**Plaintiff Claims:**

This case is an appeal of a decision in which the decision was rendered that the existing school funding system in the state of Arkansas was unconstitutional under the Education Article as well as under the Equality provisions of the Arkansas Constitution. The original decision also awarded trial/counsel fees to the Plaintiff.

In this appeal, the State makes a variety of claims:

- The constitutionality of the school-funding system is a nonjusticiable issue for the courts.
- That an adequate education is impossible to define.
- That there is no correlation between enhanced school funding and better student performance; and
- That the trial courts erred in determining the existing funding system to be inequitable.
  - The claim was that horizontal equity was in place because the State equalized per pupil revenues and that vertical equity was in place as a result of categorical weighting.
  - The State also claimed it met an equity standard as determined by the Federal Range Ratio and the GINI Index.
  - The State claimed that any remaining discrepancies were outweighed by the need for local control of schools and the need for the State to fund other public programs.

**Decision(s):**

Regarding justiciability of the issue: The Court found that it is the responsibility of the judicial branch to review school funding legislation with regard to its constitutionality.

Regarding the claim that the funding system violates the Education Clause of the State Constitution: The Court decided that the State had “not fulfilled a constitutional duty to provide the children of the state with a general, suitable, and efficient school-funding system”; thus, the system was found to violate the Education Article of the Arkansas Constitution.

Regarding the claim that the funding system violates the Equal Protection Section of the State Constitution: The Court decided the funding system violates the Equal Protection Section of the State Constitution.

**Reasoning:**

- The Courts recognized the history of the case, referring to *Tucker v. Lakeview* in which the decision in 1995 was that existing school funding system violated the Arkansas Constitution. The State was awarded a two-year stay to remediate the situation.
  - At the end of the two years (December 1996), neither the State nor Lakeview School District appealed the trial court’s decision. The State Legislature enacted various forms of legislation between 1995 and 1997 regarding the funding of the public school system.
  - Throughout this process, Lakeview filed four amendments to the case. In 1998, the trial judge dismissed Lakeview’s fourth amendment to the case; however, that dismissal was appealed and overturned.
  - In 1999 the Arkansas General Assembly enacted a new funding and accountability act regarding public education. In October of 2000, the Court conducted a trial of compliance to previously established standards.
  - On May 25, 2001, the final trial court order was issued determining that the existing funding system was unconstitutional on grounds of both inadequacy under the Education Article and inequality under the Equality provision of the Arkansas Constitution. The judge also awarded Lakeview’s petition for counsel fees.
  - After the Court was forced to determine who was the Appellant and who was the Appellee, the decision of the Court was that it was the May 2001 decision being appealed.
- Regarding the State’s claim of nonjusticiability:
  - The Court referred back to their decision in *Dupree v. Alma School District, No 30* (279 Ark 340) in which they addressed roles of the legislative and judicial branches.
  - Additionally, the Court indicated that without such review there would be an incorrect assumption that any legislative act is automatically constitutional, and not subject to judicial review.
- Regarding the definition of an “adequate education,”
  - The Court noted that in 1995 the General Assembly mandated that an adequacy study be conducted, but one was not conducted (and seven years had passed).
  - As a result, the General Assembly created a list of student outcomes that would indicate “adequacy.”

- Because an adequacy study had not been conducted, the lower courts relied on the standards set in *Rose v. Council for Better Education* (790 S.W. 2d 186) to define an “efficient” education.
- Regarding the state claim that funding does not equate to student performance,
  - The Court reviewed various monetary discrepancies including teacher salaries, buildings, equipment and budget.
  - Additionally, they interviewed the Director of the Department of Education who indicated funding played key role in attracting and maintaining quality teachers.
- Regarding the issue of an adequate education is a “fundamental right” or simply an absolute duty,
  - The Courts reviewed various other State Courts’ interpretations of the issue, including Arizona, Tennessee, Vermont, and New Hampshire.
  - The Court determined that in Arkansas “a constitutionally adequate public education is a fundamental right”;
  - However, they did not feel the need to enact a standard of strict scrutiny because the system failed, using even the rational basis standard.
- Regarding the state’s claims of equity,
  - The Court determined that expenditures by districts should be the standard use, not revenues paid to the districts per student.
  - The Court referred back to their *Dupree v. Alma School District No. 30* (279 Ark 344) in which they determined that expenditures would be the standard and that the State maintained an obligation even if local government could not fulfill their own.
  - The Court determined that equalizing revenues only creates a base floor of funding but does nothing to equalize the disparities between wealthy and poor districts.
  - The determination was made that the funding system was discriminatory based on wealth and, thus, had to determine which standard to employ. Following suit with *San Antonio v. Rodriguez* (411 US 1), the Court determined rational basis was the correct standard.
  - Under the rational basis standard, the State offered local control of the schools and other state programs as their rational basis. The Court had decided previously in *Dupree* that local control was an acceptable argument and rejected the “other State programs” as an acceptable argument.
- The Court was asked to determine if early childhood education could be implied to be mandated as a result of its impact on student readiness for kindergarten. The Court acknowledged the effects of such education but denied that such a mandate existed constitutionally.
- The Court additionally addressed a number of claims made by Lakeview, such as that retroactive funding should be provided and that attorney expenses were calculated incorrectly. Some level of modification was made regarding certain of these issues.
- The Court issued a stay of their decision until January 1, 2004, to provide the General Assembly and the Department of Education time to remedy the situation.

**Legal Standard Used in Decision:**

- At this final level of appeal, the decision was based on both the Education Clause of the State Constitution and the Equal Protection Section of the State Constitution.

**Financial Concept Used in Decision:**

- The final decision labeled “equity” by the Court was one of Horizontal Equity, as the Court was making expenditure comparisons from district to district and was discussing revenues as “base level” funding.
- The Court’s decision that the Equal Protection Section of the Constitution was violated due to inadequate funding in certain districts was much more of a Pure Vertical Equity argument in that the question was not if enough money existed in the State’s system as a whole, but instead if sufficient funding existed in each district for all students to reach a certain standard (state assessments were referenced, as were other general competencies).

**Case Title:** *Leandro v. State*(346 N.C. 336)

**Full Citation:**

Kathleen M. LEANDRO, individually and as guardian ad litem of Robert A. Leandro; Steven R. Sunkel, individually and as guardian ad litem for Andrew J. Sunkel; Clarence L. Pender, individually and as guardian ad litem of Schnika N. Pender; Tyrone T. Williams, individually and as guardian ad litem of Trevelyn L. Williams; D.E. Locklear, Jr., individually and as guardian ad litem of Jason E. Locklear; Agnus B. Thompson, II, individually and as guardian ad litem of Vandaliah J. Thompson; Jennie G. Pearson, individually and as guardian ad litem of Sharese D. Pearson; Wayne Tew, individually and as guardian ad litem of Natosha L. Tew; Dana Holton Jenkins, individually and as guardian ad litem of Rachel M. Jenkins; Floyd Vick, individually and as guardian ad litem of Ervin D. Vick; Hoke County Board of Education; Cumberland County Board of Education; Vance County Board of Education, Plaintiffs, and Cassandra Ingram, individually and as guardian ad litem of Darris Ingram; Carl Penland, individually and as guardian ad litem of Jeremy Penland; Darlene Harris, individually and as guardian ad litem of Shemek Harris; Nettie Thompson, individually and as guardian ad litem of Annette Renee Thompson; David Martinez, individually and as guardian ad litem of Daniela Martinez; Ophelia Aiken, individually and as guardian ad litem of Brandon Bell; Asheville City Board of Education; Buncombe County Board of Education; Charlotte-Mecklenburg Board of Education; Durham Public Schools Board of Education; Wake County Board of Education; Winston Salem/Forsyth County Board of Education, Plaintiffs-Intervenors,

v.

STATE of North Carolina; State Board of Education, Defendants

**State:** North Carolina

**Court:** Supreme Court of North Carolina

**Decision Date:** July 24, 1997

**Plaintiff Claims:**

**Original Plaintiffs:** The original plaintiff group consisted of students and guardians from, as well as the Boards of Education of, the property-poor school systems of Cumberland, Halifax, Hoke, Robeson, and Vance Counties. The plaintiffs entered both equity and adequacy claims, although the claims were intertwined and based on discrepancies in what plaintiffs called “educational opportunities.” Plaintiffs contended that their children did not have the same educational opportunities as students in wealthier districts. Plaintiffs contended that despite taxing themselves at a rate much higher than the “property-wealthy” districts, the poor districts did not generate enough revenue through the state’s funding formula to provide adequate facilities, resources, or competitive salaries to recruit high-quality teachers. Additionally, Plaintiffs claimed that college admission test scores, end-of-grade exams, and yearly aptitude test scores were evidence of both inadequacy and disparity.

**Intervenors:** The Plaintiff-Intervenors were students and their guardians, as well as Boards of Education, from the relatively large and wealthy school districts of the City of Asheville, Buncombe, Wake, Forsyth, Mecklenburg, and Durham Counties. The Intervenors claimed that their urban settings meant that they served a disproportionate



number of students with “extraordinary educational needs.” Specially, Intervenor cited large numbers of students requiring special education, English language instruction, and gifted instruction. Additionally, they claimed that their urban areas had a faster rate of student growth than other areas in the state, as well as higher levels of poverty, homelessness, crime, unmet health needs, and unemployment. In addition to making these adequacy claims, Intervenor made the equity claim that it was a violation of the State Constitution for the state to single out poor rural districts to which to provide supplemental funding without doing the same for other districts of need.

**Decision(s):**

- Regarding the plaintiffs’ claim that the Court of Appeals erred in ruling that there is no qualitative standard for an adequate education within the North Carolina Constitution, the Court agreed with the plaintiffs’ claim.
  - A right to a qualitatively adequate education is provided for in the North Carolina Constitution. The decision reads, “An education that does not serve the purpose of preparing students to participate and compete in the society in which they live and work is devoid of substance and is constitutionally inadequate.”
  - The Supreme Court ruled that students in North Carolina are guaranteed “an opportunity to receive a sound basic education in our public schools. For purposes of our Constitution, a “sound basic education” is one that will provide the student with at least (1) sufficient ability to read, write, and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society; (2) sufficient fundamental knowledge of geography, history, and basic economic and political systems to enable the student to make informed choices with regard to issues that affect the student personally or affect the student’s community, state, and nation; (3) sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training; and (4) sufficient academic and vocational skills to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society.” The Court then referenced *Rose v Council for Better Education* (790 S.W. 2d 186) & *Pauley v. Kelly* (162 W. Va 672).
- Regarding the plaintiffs’ claim that Court of Appeals erred in ruling that the state’s funding system does not violate Article IX, Section 2(1) of the State Constitution which requires a “general and uniform system of free public schools... wherein equal opportunities shall be provided for all students” because of the per pupil expenditures from district to district and the varied available resources and systems from wealthy to poor districts, the Court disagreed with the plaintiffs’ claim, upholding the Court of Appeals decision.
  - The Court considered the historical context of the original wording of the Constitution, which did not include the equal opportunities clause, and determined the intent was to provide every student with a sound education. The Court then concluded that, historically, the equal opportunities clause was added to ensure that all children in the state were provided the right to that education.

- The Court then reviewed Article IX, Section 2(2) which mandates local funding and control of school districts. The Court stated that such a constitutional mandate cannot yield unconstitutional results.
- Regarding the plaintiff-intervenors' claim that they were unable to provide "minimally adequate" basic education in their districts because of the high numbers of disadvantaged children in their district, the Court returned to their decision that the State Constitution does provide for a "sound basic education" and indicates that plaintiff-intervenors can proceed with their claims based on that standard. As a result, the Court does not address the plaintiff-intervenors' claim any further.
- Regarding the plaintiffs' claim that the Equal Protection Clause in the North Carolina Constitution is being violated as a result of the disparities in local spending in various school districts, the Court found that the argument would require determining that one portion of the Constitution violated another portion, and thus, the Court found the argument to be without merit.
- Regarding the plaintiff-intervenors' claim that the Court of Appeals erred in ruling that the North Carolina Constitution is not being violated by the means the state system provides supplemental funding, the Supreme Court ruled in the plaintiff-intervenors' favor.
  - The Supreme Court found that the General Assembly is within their rights to provide supplemental funds, but cannot do so arbitrarily.
- Regarding the plaintiffs' specific claims regarding various detailed elements of the funding system and their impact on providing a sound basic education, the Court remanded the case to the trial court to permit plaintiff-parties to proceed with the claims based on the Supreme Court's interpretation of "sound basic education" in this case.

### **Reasoning:**

- After a series of appeals regarding a motion by the Defendants to dismiss the case in which the decision by the Appeals Court was to deny the motion for dismissal, the Supreme Court of North Carolina reviewed the question of educational adequacy claims being "nonjusticiable political questions." The Court decided that "when a government action was being challenged as unconstitutional, the courts have a duty to determine whether the action exceeds constitutional limits;" therefore, the Court found the matter to be justiciable.
- The Supreme Court disagreed with the Court of Appeals' interpretation that the constitutional right to an education is "limited to one of equal access to education, and it does not embrace a qualitative standard because the Court of Appeals had, in the Supreme Court's eye, used a single sentence from the previous case *Sneed v Greensboro City Board of Education* (299 N.C. 609) out of context. The sentence the Court of Appeals had based their decision on was "It is clear then, that equal access to participation in our public school system is a fundamental right, guaranteed by our state constitution and protected by considerations of procedural due process" *Sneed v Greensboro City Board of Education* (299 N.C. 609). The Supreme Court noted in *Leandro v. State*(346 N.C. 336) that the *Sneed* sentence referred to equal access to existing public education opportunities; and because *Leandro* did not involved such issues of equal access to existing opportunities in the educational system, the Court of Appeals had misapplied the Supreme Court's language from *Sneed*.

- The Supreme Court outlined a series of rationale for considering a qualitative standard in the right to education as outlined in the State's Constitution, as well as by state legislation. The Court referenced their decision in *Board of Education v. Board of Commissioners of Granville County* (147 N.C. 469) in which the Court stated, "It is manifest that these constitutional provisions were intended to establish a system of public education adequate to the needs of a great a progressive people..." Additionally, the Supreme Court cited state statutes that read "(a) It is the policy of the State of North Carolina to create a public school system that graduates good citizens with the skills necessary to cope with contemporary society, using State, local, and other funds in the most cost-effective manner... & (b) To insure a quality education for every child in North Carolina, and to assure that the necessary resources are provided, it is a policy of the State of North Carolina to provide from State revenue sources the instructional expenses for current operations of the public school system as defined in the standard course of study" (cited by the Court from Chapter 115C of the North Carolina General Statutes). The final statute cited by the Supreme Court regarding a qualitative standard in education is that of North Carolina General Statute 115C-408 which indicates that local school boards should "provide adequate school systems within their respective local school administrative units, as directed by law."
- The Supreme Court concludes that the stream of litigation that would be generated by determining that the constitution guaranteed the right to a sound basic education would "constantly interfere with the running of the schools of the state and would unnecessarily deplete their human and fiscal resources as well as the resources of the courts."
- The Supreme Court provides general commentary on the impact of fiscal "inputs" and resources to student achievement "outputs," noting that it is a topic of great controversy and complexity, citing *San Antonio v Rodriguez* (411 U.S.1) and providing an example in the Kansas City, Missouri School District in which large expenditures did not have significant "output" impact, citing *Missouri v. Jenkins* (515 U.S. 70).

#### **Legal Standard(s) Used in Decision:**

- State Constitution Adequacy Claim: The North Carolina State Constitution addresses public education in two manners. The articles read, "The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right" and "The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students." The Court defined the right to education as it is constitutionally outlined as a "sound basic education," moving on to define that as an education that "serve(s) the purpose of preparing students to participate and compete in the society in which they live and work."
- State Constitution Equal Protection Claim: The Court refused to address the plaintiffs' Equal Protection Claim because the Court found that the claim being made by the plaintiffs was that the local funding process mandated by Article IX, Section 2(2) was unconstitutional under the Equal Protection Clause in the same Constitution. The Court found such a claim "axiomatic," and did not address the claim further. The plaintiff-intervenors' State Equal Protection claim was supported in that the Court determined that

supplemental funding by the state or General Assembly could not be not in an arbitrary manner.

**Financial Concept Used in Decision:**

- The plaintiff-parties' adequacy claims were decided by the courts as a pure Adequacy decision because it was not considering individual student needs but, instead, focused on determining that there was a qualitative standard for an adequate education that was constitutionally guaranteed.
- The plaintiff-intervenors' claim that they could not meet a basic level of adequacy because of their high population of disadvantaged students was a Vertical Equity as Adequacy claim in that it addressed providing differentiated inputs based on student need in order to reach a standard of adequacy. The Court left this option for plaintiff-intervenors to pursue by outlining the standards of a "sound basic education" and referring plaintiff-intervenors back to pursue the issue using that standard.
- The plaintiff-intervenors' claim that supplemental funding by the state was arbitrary was a Horizontal Equity claim and was supported to some level by the Court.

**Case Title:** *Board of Education, Levittown Union Free School District v. Nyquist*

**Full Citation:**

Board of Education, Levittown Union Free School District et al., Respondents-Appellants, and  
Board of Education, City School District, Rochester et al., Intervenor-Respondents-Appellants  
v.

Ewald B. Nyquist, as Commissioner of Education, et al., Appellants-Respondents.

Court of Appeals of New York.

Argued May 10, 1982; Decided June 23, 1982

**State:** New York

**Court:** Court of Appeals of New York

**Decision Date:** June 23, 1982

**Plaintiff Claims:**

**Original Plaintiffs:** The original plaintiff group consisted of a group of “property-poor” school districts who claimed that the existing state education funding system violated the equal protection clauses of both the State and Federal Constitutions, as well as violated the State Education Clause. This argument was based on the fact that the education funding system raised money locally via property taxes. Because of their “property-poor” status, the original plaintiffs contended that such a local-taxation system created grossly disparate educational opportunities because of the grossly disparate financial support generated.

**Intervenors:** The intervenors are a group that represented the school districts in four of the largest cities in the state. They also claimed that the funding system violated the equal protection clauses of both the State and Federal Constitutions, as well as violated the State Education Clause because of the impact the system had on districts in large cities. The intervenors claimed that special financial burdens existed for city districts because of “metropolitan over-burden.” This group of plaintiffs contended that there were four identifiable prongs of “metropolitan over-burden,” the first prong being demands on municipal budgets for non-education needs peculiar to cities; the second being diminished purchasing power of the municipal education dollar; the third being significantly greater student absenteeism; and the fourth prong being larger populations of students in municipal areas with special needs.

**Decision:**

The Court reversed the earlier Court’s rulings and ruled that the State’s existing funding system was constitutional under the Equal Protection Clause of the Federal Constitution and under the Equal Protection Clause and Education Article in the State Constitution.

**Specific Relevant Factors:**

- The decision acknowledges that funding discrepancies exist as a result of the local taxation element of the system but ruled that no claim had been moved forward, indicating that any school district fell below the state-wide minimum standard of educational quality and quantity as established by the Board of Regents.

- The decision states that it would be inappropriate for the judicial branch of government to involve themselves in the determination of state expenditures because that duty falls to the legislature.
- The decision acknowledges “great difficulty of fashioning practical remedies” if the Court were to issue a “blanket declaration of unconstitutionality as to the entire system for financing public education.”
- Specifically regarding the plaintiff claim that “property-poor” districts were being discriminated against as a result of the funding formula thus violating the Fourteenth Amendment, the decision returns to the decision of *San Antonio District v. Rodriguez* in which property-wealth discrimination was considered and rejected by the Supreme Court.

#### **Legal Standard Used in Decision:**

- Federal Equal Protection Claim: Regarding the original plaintiffs’ claim, the Court applied the standard established in *San Antonio v. Rodriguez* and found the existing funding system to be constitutional. With regard to the Intervenor’s claim, the Court applied a rational basis standard and determined that “inequalities existing in cities are the product of demographic, economic, and political factors intrinsic to the cities themselves, and cannot be attributed to legislative action or inaction.” Additionally, the decision refers to the responsibility of fiscal distribution within city management to be a municipal responsibility, not one of the state. Thus, on both claims, the system was found not to violate the Fourteenth Amendment.
- State Equal Protection Claim: Considering the original plaintiffs’ and the intervenor’s claims, the Court applied the rational basis standard to its analysis of the funding system as it relates to the State Equal Protection Clause. This standard was based on analysis previously made in the case *Levy v City of New York (429 US 805)*. Applying rational basis standard, the Courts indicated that the State’s contention that the rational basis was the preservation of local control of education was supported by the decision.
- State Education Article Claim: The Article reads, “*the legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.*” The decision indicates that the article “makes no reference to any requirement that the education to be made available be equal or substantially equivalent in every district”; thus, the plaintiffs’ equity claim is not supported constitutionally. Additionally, the decision references that the intent of the 1894 Article was a “State-wide system assuring minimal acceptable facilities and services in contrast to the unsystematized delivery of instruction then in existence within the State”; therefore, the existing system in the State met constitutional standards in the Court’s eyes.

#### **Financial Concept Used in Decision:**

Plaintiffs made a Horizontal Equity claim, but the Courts rejected the claim based on an Adequacy decision.

**Case Title:** *Lewis v. Spagnolo* (710 N.E.2d 798)

**Full Citation:**

LEWIS E. et al., Appellees  
v.  
Joseph A. SPAGNOLO, Superintendent of Education, et al., Appellants

**State:** Illinois

**Court:** Supreme Court of Illinois

**Decision Date:** April 15, 1999

**Plaintiff Claims:**

**Claims against the District Defendants:** The plaintiffs claim that the district-defendants have failed to provide safe physical environments and have failed to provide quality instructional resources, including a teaching faculty, for decades. The plaintiffs claim that the district-defendants have “otherwise mismanaged the affairs of the District that children are unsafe and cannot reasonably be expected to learn in District schools.” Plaintiffs provide a list of physical problems with various school buildings in the district, such as flooding, fire hazards, presence of asbestos, etc. Additionally, the plaintiffs contend that the district-defendants do not meet their obligation to provide security, and, as a result, violence is widespread in the schools. The plaintiffs argue that the district-defendants mismanagement of the district has led to staffing deficiencies and poor student achievement outcomes. The plaintiffs seek a declaration that they “have the right to a safe, adequate education under the Illinois and U.S. Constitutions, the School Code, and common law.” Additionally, they seek an order from the Court for the defendants to create and implement a plan correcting the existing conditions. Otherwise, the defendants ask that the State Board no longer recognize District 189 and divide the schools and pupils between other school districts. Finally, the plaintiffs seek funding from the District to provide supplemental education services they deem necessary to compensate for inadequate education they received in the past.

**Claims against the State Defendants:** The plaintiffs claim that the State defendants have failed to properly intervene in the administration of the District. This claim recognized that the State did provide a financial oversight panel to oversee the District but contends the panel does not have the necessary authority to remedy the problem. The defendants also claim that the State continued to accredit the District schools despite their knowledge that the schools were inadequate.

**Decision(s):**

- Regarding the adequacy claim based on the Education Article of the Illinois Constitution, the Court found that the issue of adequacy had already been determined by the Court in *Committee for Educational Rights v. Edgar* (174 Ill.2d 1) to be unjusticiable and an issue that must be left to legislators and administrators.

- Regarding the adequacy claim based on the Due Process Clauses of the United States and Illinois Constitution, the Court found that the plaintiffs cannot state a claim for a due process violation under either Constitution.

### **Reasoning:**

- The Court referred to their 1996 decision in *Committee for Educational Rights v. Edgar* (174 Ill.2d 1) in which their reasoning outlined justification for limiting judicial involvement in determining quality levels of schools or educational systems. The decision reads, “It would be a transparent conceit to suggest that whatever standards of quality courts might develop would actually be derived from the Constitution in any meaningful senses. Nor is education a subject within the judiciary’s field of expertise, such that a judicial role in giving content to the education guarantee might be warranted. Rather, the question of educational quality is inherently one of policy involving philosophical and practical considerations that call for the exercise of legislative and administrative discretion. To hold that the question of educational quality is subject to judicial determination would largely deprive the members of the general public of a voice in a matter which is close to the hearts of all individuals in Illinois. An open and robust public debate is the lifeblood of the political process in our system of representative democracy. Solutions to problems of educational quality should emerge from spirited dialogue between the people of the state and their elected representatives.”
- The plaintiffs claim that the reasoning of *Committee for Educational Rights v. Edgar* (174 Ill.2d 1) should not apply to this case because the issue is not reaching a certain level of adequacy but, in their mind, providing any level of basic education. The Court disagreed with the plaintiffs’ claim on this matter.
- The plaintiffs made two federal due process claims. The first claim is that the Illinois compulsory education law constitutes a deprivation of the plaintiffs’ liberty which gives rise to an affirmative duty on the part of the state to provide a minimally adequate education. The second claim is that the duty arose because the District subjected the plaintiffs to state-created dangers. The Courts disagreed with the plaintiffs on both claims.
- The Court notes that education is not a fundamental right protected by the Federal Constitution, citing *San Antonio v. Rodriguez* (411 U.S. 1).

### **Legal Standard(s) Used in Decision:**

Education Article of the Illinois Constitution (Ill. Const. 1970, art X, 1): The Article reads, “A fundamental goal of the People of the State is the educational development of all persons to the limit of their capacities. The State shall provide for an efficient system of high quality public educational institutions and services. Education in public schools through the secondary level shall be free. There may be such other free education as the General Assembly provides by law. The State has the primary responsibility for financing the system of public education.” The Court ruled that educational quality is not a judicial decision; thus, the plaintiffs claims under the Education Article of the Illinois Constitution were without merit.

### Due Process Clause of the United States Constitution:

- In their claims regarding the compulsory education law, the plaintiffs cite *Estelle v. Gamble* (429 U.S. 97) & *Youngsberg v. Romero* (457 U.S. 307) and claim that requiring



the attendance of school was essentially the equivalent loss of liberty as institutionalizing a mentally retarded individual or incarcerating a criminal, thus claiming that an affirmative responsibility is created under the Due Process Clause. The Court rejected the idea that compulsory education created such a “special relationship” and cited *DeShaney v. Winnebago County Department of Social Services* (489 U.S. 189) as a quality summation of the role of the Due Process Clause with regard to affirmative government responsibility. The *DeShaney* Court explained *Youngsberg* and *Estelle* as follows: “Taken together, [these cases] stand only for the proposition that when the State takes a person into its custody and hold him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well-being. The rationale for this principle is simple enough: when The State by the affirmative exercise of its power so restrains an individual’s liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs—e.g. food, clothing, shelter, medical care, and reasonable safety—it transgresses the substantive limits in the state action set by the Eighth Amendment and the Due Process Clause. The affirmative duty to protect arises not from the State’s knowledge of the individual’s predicament or from its expressions of intent to help him, but from the limitation which it has imposed on his freedom to act on his own behalf.”

- The plaintiffs also assert there is a due process violation because the students were subjected to “state-created dangers.” The plaintiffs argue to lines of reasoning in this assertion; however, the first depends on the compulsory attendance law contention in which the Court disagreed with the plaintiffs. Therefore, the Court did not address that line of reasoning further. The second line of reasoning suggests that the State has an affirmative responsibility to ensure the safety of the students. The Court disagreed, indicating that the Due Process Clause does not impose a duty on the State to protect citizens but, instead, the “state-created danger” scenario only applies when a state “affirmatively places a particular individual in a position of danger the individual would not otherwise have faced” *Reed v. Gardner* (986 F.2d 1122). More specifically, the plaintiffs would need to “plead facts showing some *affirmative act* on the part of the state that either created a danger to the plaintiff or rendered him more vulnerable to an existing danger” *Stevens v. Umsted* ( 131 F.3d 697). The Court indicated that the lack of action to repair and maintain the schools did not constitute an affirmative act.

Due Process Clause of the Illinois Constitution: The plaintiffs requested that the Court extend a broader interpretation of the State Due Process Clause than they had of the Federal Due Process Clause. The Court found no compelling reason to do so in this case.

Provisions of Illinois School Code: Because the plaintiffs were seeking to force public officials to do what they claim the law requires, the Court suggested, based on their reasoning in *Noyola v. Board of Education* (179 Ill.2d 121), that the plaintiffs may have necessary elements for a writ of *mandamus*. The Court reviewed such a possibility and determined that plaintiffs had not provided specific enough ways school code had been violated to generate a writ of *mandamus*; however, the Court dismissed the issue without prejudice, leaving room for plaintiffs to pursue a future writ of *mandamus* by providing more detailed evidence.

Common Law: The plaintiffs argue that the District should be held to the same standard as a landowner who is liable for any physical harm caused on the land if “the owner knows or should know of the condition and that it presents an unreasonable risk of harm to such invitees; should expect that invitees will not discover the danger or protect themselves against it; and fails to exercise reasonable care to protect invitees against the danger.” *Ward v. Kmart Corp.* (136 I.;,2d 132). Since the plaintiffs were not claiming specific injury, this claim was rejected by the Court.

**Financial Concept Used in Decision:**

This case was argued and decided as a pure Adequacy case.

**Case Title:** *Londonderry v. State* (958 A. 2d 930)

**Full Citation:**

Londonderry School District SAU #12  
v.  
State of New Hampshire

**State:** New Hampshire

**Court:** Supreme Court of New Hampshire

**Decision Date:** September 8, 2006

**Plaintiff Claims:**

The original plaintiffs made the following claims regarding House Bill 616:

- It fails to define, determine the cost of, and ensure delivery of a constitutionally adequate education;
- It requires a number of municipalities to fund a constitutionally adequate education through local taxes;
- It all but eliminates “donor communities” and imposes an unreasonable and disproportionate tax burden on property-poor municipalities; and
- It creates a class of former donor communities that retain all the revenue that they raise through the statewide enhanced education tax, resulting in an equal protection violation.

**Decision:**

The Court ruled that House Bill 616 (the education funding law) did not, with a deep enough level of specificity, define clear standards for an adequate education in the State of New Hampshire, thus not meeting the constitutional standard set in the *Claremont* (138 N.H. 183) decisions.

**Reasoning:**

- This case was an appeal of the lower court finding that the State had failed in its duty to define a constitutionally adequate education, failed to determine the cost of an adequate education, and failed to satisfy the requirement of accountability; and that House Bill 616 (the education funding law) created a non-uniform tax rate in violation of Part II, Article 5 of the State Constitution.
- The Court referenced the four mandates from the *Claremont* (138 N.H. 183) decisions including:
  - Define an adequate education
  - Determine the cost of an adequate education
  - Fund it with constitutional taxes
  - Ensure its delivery through accountability
- Regarding Claremont’s first mandate of defining an adequate education:
  - The State claims the mandate was met with state statute RSA 193-E:2 entitled “Criteria for an Equitable Education” which outlines:
    - An equitable education shall provide all students with the opportunity to acquire:

- Skill in reading, writing, and speaking English to enable them to communicate effectively and to think creatively and critically.
  - Skill in mathematics and familiarity with methods of science to enable them to analyze information, solve problems, and make rational decisions.
  - Knowledge of the biological, physical and earth sciences to enable them to understand and appreciate the world around them.
  - Knowledge of civics and government, economics, geography, and history to enable them to participate in the democratic process and to make informed choices as informed citizens.
  - Grounding in the arts, languages, and literature to enable them to appreciate our cultural heritage and to develop lifelong interest and involvement in these areas.
  - Sound wellness and environmental practices to enable them to enhance their own well-being, as well as that of others.
  - Skills for life-long learning, including interpersonal and technological skills, to enable them to learn, work and participate effectively in a changing society.
- Citing various cases in other states including *Pauley v. Bailey* (324 S.E.2d) from West Virginia and *Rose v. Council for Better Education* (790 S.W.2d 186), the Court revealed multiple cases in which other high courts had mandated an increased level of specificity in the definitions of adequate educational standards for a state.
    - Without the standards being more defined, the Court determined that a highly subjective decision would need to be made, regarding if the standards had been met because they were so very general.
  - The state also contended that the combination of RSA 193-E:2 and the state standards created the more detailed level of adequacy definition.
    - The Court was willing to allow that determination be made by the legislature but indicated that if that was the standard being set, the state would be obligated to pay for the entire statutory scheme, adding a substantial financial burden to the state. Whatever the state defines as constitutionally adequate, it must fund without shifting any burden to local school districts.
  - Because the decision was made that “constitutionally adequate” had not been effectively defined, the Court did not rule on costing out an adequate education and the funding portion of the case.

### **Legal Standard Used in Decision:**

This case was grounded in the Claremont decisions in which the State Education Clause was the determining legal factor.

### **Financial Concept Used in Decision:**

This case addresses pure Adequacy as it sought a determination for a clear set of outcome standards regarding an adequate education in the State of New Hampshire.

**Case Title:** *Lujan v. Colorado State Board of Education* (649 P.2d 1005)

**Full Citation:**

Theodore LUJAN, et al., Plaintiffs-Appellees,  
v.  
COLORADO STATE BOARD OF EDUCATION, et al., Defendants—Appellants,  
And Adams-Arapahoe-Aurora School District 28-J, et al.,  
Intervenors-Appellants

**State:** Colorado

**Court:** Supreme Court of Colorado

**Decision Date:** May 24, 1982 (Rehearing denied August 3, 1982)

**Plaintiff Claims:**

The plaintiffs claimed that the existing Colorado system of funding public schools was inequitable because it relied substantially on districts assessed valuation and ability to tax themselves, thus creating financial disparity between high-wealth and low-wealth districts. Plaintiffs claimed the system created a suspect classification based on wealth and asks the Court to apply the strict scrutiny standards. Defendants contended there was a legitimate state interest in maintaining local control of schools and contend that a rational basis standard should be applied

Plaintiffs also contended that the phrase “thorough and uniform” in the state’s education Article, requires equal opportunities be provided to each child. Plaintiffs contended that the varied funding levels generated by the existing system violate that requirement.

**Decision:**

Regarding the Equal Protection claim, the Court overruled the trial court’s decision by ruling that the Colorado finance system “does not violate Article IX, Section 2 of the Colorado Constitution, nor does it deny equal protection of the law to the plaintiffs-appellees, or those similarly situated.” The Court also ruled that “Colorado’s method of capital outlay financing, whereby each local school district is governed by a limitation on its taxing authority, is rationally related to a legitimate state purpose” *Lujan v. Colorado State Board of Education* (649 P.2d 1005).

Regarding the State Education Article claim, the Court reversed the trial court’s decision and determined that “the requirement of a ‘thorough and uniform system of public schools’ does not require that educational expenditures per pupil in every school district be identical,” and, thus, the existing funding system does not violate Article IX, Section 2 of the Colorado Constitution *Lujan* (649 P.2d 1005).

**Reasoning:**

- The Court reviewed the three standards it should consider in reviewing the Equal Protection Claim. The first standard relates to gender only, and thus does not apply. The second standard exists of “a fundamental right is affected or a suspect classification is created” *Lujan* (649 P.2d 1005). The third standard applies if gender, fundamental rights,

or suspect classifications are not involved. The third standard then requires only that the State action be rationally related to the State purpose.

#### Education as a Fundamental Right

- Citing *San Antonio v. Rodriguez* (411 U.S. 1), the Court found the question of education as a fundamental right of this case to be the same as that in *Rodriguez* (411 U.S. 1) and thus ruled that it “negate(s) any claim that the Colorado school finance system interferes with a fundamental right to education” *Lujan* (649 P.2d 1005) under the U.S. Constitution.
- After rejecting education as a fundamental right under the U.S. Constitution, the Court reviewed the question if it is a fundamental interest under the Colorado Constitution. They did not apply the *Rodriguez* standard because of the differing natures of the U.S. & Colorado constitutions, but they also did not find that the Colorado Constitution made education a fundamental right.

#### Wealth as a Suspect Classification

- At the federal level, the Court felt the circumstances presented match those of *Rodriguez*, and, thus, wealth would not be considered a suspect classification for means of determining from which standard to evaluate the case.
- In considering if the State Constitution can allow for categorization of wealth as a suspect class, the Court determined that because a political body, namely a school district, cannot be a suspect classification, which is limited to individuals’ characteristics, and because there is no distinct “class” of poverty, the standard of a suspect classification cannot be applied for wealth under the State Constitution either.
- The Court determined that the correct standard is that of Rational Basis, and the Court agreed with defendants that the rational basis for the existing funding system is the maintenance of a locally controlled public school system and is not an Equal Protection violation.

#### **Legal Standard Used in Decision:**

State Education Clause: Article IX, Section 2 of the Colorado Constitution states, “Establishment and maintenance of public schools. The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, wherein all residents of the state, between the ages of six and twenty-one years, may be educated gratuitously. One or more public schools shall be maintained in each school district within the state, at least three months in each year; any school district failing to have such school shall not be entitled to receive any portion of the school fund for that year.” The Court determined that “the requirement of a ‘thorough and uniform system of public schools’ does not require that educational expenditures per pupil in every school district be identical”; and, thus, the existing funding system does not violate Article IX, Section 2 of the Colorado Constitution *Lujan* (649 P.2d 1005).

#### U.S. & State Equal Protection Clauses:

The Court determined that the rational basis standard was the standard to apply, and that the state had provided a rational basis for the existing funding system.

**Financial Concept Used in Decision:**

Both the Equal Protection Act claim and the State Education Article claim are those of Horizontal Equity. The State Education Article claim has the potential to be considered an adequacy claim based on the use of “thorough and uniform,” but the focus remains on the “uniform” and not on “thorough,” so this case does not become one of Adequacy.

**Case Title:** *McDaniel v. Thomas* (248 Ga. 632)

**Full Citation:**

McDANIEL, et al.  
v.  
THOMAS, et al.  
THOMAS, et al.  
v.  
McDANIEL, et al.

**State:** Georgia

**Court:** Supreme Court of Georgia

**Decision Date:** November 24, 1981 (Rehearing denied December 17, 1981)

**Plaintiff Claims:**

The plaintiffs are students, parents and school officials from property-poor school districts. At the trial court level, plaintiffs made two initial claims regarding the state funding system for public schools: 1.) they contend that it violates the Equal Protection Provision of the Georgia State Constitution and 2) that it deprives children of an adequate education as they contend is mandated in the Education Article of the State Constitution. The trial court agreed with the plaintiffs first claims and found the system to be unconstitutional but did not agree with the assertions regarding the adequate education requirements. Both parties appealed, bringing the case to the Georgia Supreme Court.

**Decision:**

- Regarding the Cross-Appeal (the original plaintiffs' claim that the existing system does not fulfill the obligation for an "adequate" education), the Court affirms the lower court decision that there is not a constitutionally-mandated definition or level of *adequate*; thus, no violation exists.
- Regarding the Main Appeal (the original plaintiffs' claim that the existing funding plan violate the State Equal Protection provisions), the Court determines that education is not a fundamental right under the Georgia Equal Protection Clause, using *San Antonio v. Rodriquez* (411 U.S. 1) as guidance; therefore, the Court determines the correct Equal Protection standard to use is that of rational basis. They find that local control of the small portion of funding that comes from local taxation is a rational basis for the existing funding plan. Thus, the decision of the trial court is reversed, and the funding program is constitutional.

**Reasoning:**

- The defendants claim the issue is nonjusticiable; but the Court disagreed, indicating that they were not being asked to choose one funding plan over another but to determine the constitutionality of the existing plan. Additionally, they cited other states in which



similar cases had been heard, specifically quoting *Board of Education, Levittown v. Nyquist* (83 App.Div.2d 217) out of New York.

- After deciding that the existing public school finance system meets the constitutional requirements of an “adequate” education, the question becomes “whether the state equal protection provisions impose *additional* obligation on the state to *equalize* educational opportunities” *McDaniel v. Thomas* (248 Ga. 632). The Court notes that the Education Article of the State Constitution is very detailed regarding the requirements of the state with regard to education, but it is not inclusive of a mandate requiring the General Assembly to equalize educational opportunities.

### **Legal Standard Used in Decision:**

- State Education Clause: In considering the Cross-Appeal, the Court concludes that the existence of a massive state-wide system for funding schools, and the lack of evidence that any particular school district lacks the resources to provide a basic education, the Court was unwilling to intervene any further in defining “adequate” as listed in the State Constitution above and beyond the existence of “basic education,” ruling that such a definition would need to be legislative.
- State Equal Protection Provisions: The Court determines that education is not a fundamental right under the Georgia Equal Protection Clause, using *San Antonio v. Rodriquez* (411 U.S. 1) as guidance; therefore, the Court determines the correct Equal Protection standard to use is that of rational basis. They find that local control of the small portion of funding that comes from local taxation is a rational basis for the existing funding plan. Thus, the decision of the trial court is reversed and the funding program is constitutional.

### **Financial Concept Used in Decision:**

The State Equal Protection claim is one of Horizontal Equity because the focus is on equalizing inputs to each district, regardless of need.

The State Education Clause claim is one of Adequacy in that it asks the court to define an “adequate education” and to mandate funding to accommodate every district reaching that level.

**Case Title:** *McDuffy v. Secretary of Executive Office of Education* (615 N.E.2d 516)

**Full Citation:**

Supreme Judicial Court of Massachusetts, Suffolk.  
Jami McDUFFY and Others  
v.  
SECRETARY of the EXECUTIVE OFFICE OF EDUCATION & Others

**State:** Massachusetts

**Court:** Supreme Judicial Court of Massachusetts, Suffolk.

**Decision Date:** June 15, 1993

**Plaintiff Claims:**

- The plaintiffs claim that the State's school financing system denies them the opportunity to receive an adequate education in the public schools which plaintiffs contend is a violation of Part II C, 5 & 2 and Articles 1 and 10 of the Declaration of Rights of the Massachusetts Constitution.
- The plaintiffs sought a declaratory judgment that "the Commonwealth has an obligation to provide each public school child with the opportunity to receive an adequate education" as well as a judgment that "the Commonwealth has violated the Massachusetts Constitution by failing to fulfill its obligations to Plaintiff school children."

**Decision:**

The Court ruled that a constitutional mandate of an adequate education existed, that many students in the state were being denied that constitutional mandate and that the acceptable guidelines for adequacy should match those outlined by the Kentucky Supreme Court in *Rose v. Council for Better Education, Inc.* (790S.W.2d 186).

**Reasoning:**

- The Court determined that the plaintiffs wanted them to rule the entire financing scheme unconstitutional; the Court was unwilling to do that, but instead tailored the focus to a decision if a constitutional duty exists to ensure the education of its children in the public schools.

**Regarding Adequacy:**

- Plaintiffs contend that "the education provided is inadequate by any reasonable standard of adequacy."
  - Plaintiffs cite crowded classes, reductions of teaching staff, inadequate teaching of basic subjects, neglected libraries, inability to attract and retain quality teachers, lack of teacher training, lack of curriculum, lack of predictable funding, administrative reductions and inadequate guidance counseling.
  - Additionally, the plaintiffs contend that most districts are represented by those who struggle with the above issues, but there are a handful of comparison districts

in the state that have the necessary resources and thus, plaintiffs claim, have a more adequate provision for education.

- Plaintiffs and defendants agree that the question at hand is “equal access to an adequate education, not absolute equality.”

Regarding Part II C, 5 & 2:

- The Court indicated that in reviewing a phrase in the Constitution words “are to be given their natural and obvious” meaning.
- Additionally, the Constitution is to be reviewed in light of what is considered to be the framers’ intent.
- Finally, the Court notes that the Constitution is “a statement of general principles and not a specification of details.”
- The relevant portion of Part II C, 5 & 2 reads:
  - “Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of people, it shall be the duty of the legislatures and magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns...”
  - Plaintiffs contend that the language includes a duty to an adequate education; defendants consider the language to be aspirational.
- The Court determined, using a “common language” and “framers’ intent” analysis of the language, that Part II C, 5 & 2 imposes a duty to provide for the education of the populace.
- The defendants argued that a standard of constitutional adequacy had been met by existing standards of education in the state. The Court reviewed the data and evidence submitted in trial and determined that children in much of the state were not receiving their constitutional entitlement of an adequate education.
- The Court accepted the guidelines for adequacy established in Kentucky in the *Rose v. Council for Better Education, Inc.* (790S.W.2d 186).

**Legal Standard Used in Decision:**

The decision was based on the State Education Clause.

**Financial Concept Used in Decision:**

This was a case of Adequacy because the issue was sufficient funding existing systemically to support a level of adequacy throughout the entire system.

**Case Title:** *Milliken v. Green* (212 N.W. 2d 711)

**Full Citation:**

William G. Milliken, Governor, and Frank J. Kelley, Attorney General, in the Name of and for  
Use and Benefit of the People of the State of Michigan, Plaintiffs, and Leo G. Steers et al.,  
Intervening Plaintiffs,  
and Thomas C. Walsh, Intervenor  
and John H. King, Intervenor  
v.  
Allison GREEN, State Treasurer, Bloomfield Hills School District, a body corporate, et al.,  
Defendants

**State:** Michigan

**Court:** Supreme Court of Michigan

**Decision Date:** December 14, 1973

**Plaintiff Claims:**

The Governor requested a rehearing to address the question of the constitutionality of the public school financing system. The original decision was *Governor v. State Treasurer*, 203 N.W.2d 457 in 1972. However, after the U.S. Supreme Court's 1973 decision in *San Antonio v. Rodriguez* (411 U.S. 1) the Supreme Court of Michigan granted a rehearing to answer the following question: "Does the Michigan public school financing system, consisting of local, general ad valorem property taxes and state school aid appropriations, by relying on the wealth of local school districts as measured by the state equalized valuation of taxable property per student which results in substantial inequality of maintenance and support of the elementary and secondary schools, deny the equal protection laws guaranteed by Article I, Section 2 of the Michigan Constitution or the Fourteenth Amendment to the United States Constitution?"

Additionally, plaintiffs question the constitutionality of a funding system in which taxpayers' ability or willingness to tax themselves created discrepancies between districts regarding financial inputs.

**Decision:**

- Regarding the review of a possible Fourteenth Amendment Violation, the Court cited *San Antonio v. Rodriguez* (411 U.S. 1), and determined that no violation existed.
- Regarding the State Equal Protection Claim, the Court determined that there was no violation.
- The Court also decided that the Michigan Constitution does not prohibit districts from levying at rates higher than other districts, nor does it mandate State supplement should such a situation occur.
- The Court determined that no evidence of educational inequities as a result of the funding system had been presented.

**Reasoning:**

- The Court referred to a state-wide study of financing of public education which determined that higher revenue districts could expend more per pupil and that there was little evidence that more spending was related to higher student achievement (the study cited non-school factors as larger influences).
- In comparing operating expenses between the ten highest and the ten lowest districts the study found discrepancies in what the Court considered to be a reasonable range.
- The decision of *San Antonio v. Rodriguez* (411 U.S. 1) was new at the time of this decision, so the Court aligned the similarities between Michigan and Texas systems, concluding that the Michigan Court could defer to the decision rendered by the U.S. Supreme Court regarding the Texas system.
- The Court acknowledged the need for a state review, citing *Robinson v. Cahill* (62 NJ 473); however, the Court deferred in making a decision on this portion of the matter to allow for the legislature to act.
- With regard to “disparities in educational opportunities,” the Court noted that the Constitution does not forbid disparities of wealth, nor does it forbid self-taxation. It only requires that the Legislature “maintain and support” the system.

**Legal Standard Used in Decision:**

The Court answered negatively a claim regarding the Federal Fourteenth Amendment. The Court also determined that there had been no discrimination based on the State Equal Protection Clause.

**Financial Concept Used in Decision:**

The plaintiffs were essentially making a Horizontal Equity claim by claiming that taxation rates created inequities that were not related to educational need.

**Case Title:** *Montoy v. State* (62 P.3d 228)

**Full Citation:**

Supreme Court of Kansas  
Eric and Ryan MONTROY, et al., Appellants  
v.  
STATE of Kansas, et al., Appellees

**State:** Kansas

**Court:** Supreme Court of Kansas

**Decision Date:** January 24, 2003

**Plaintiff Claims:**

The plaintiffs (students representing African-American, Hispanic, Special Education groups and two large school districts) made three original claims regarding the state school funding system: 1.) The system violated the State Constitution requirement for “the suitable finance of educational interests of the State”; 2.) The system violated the Kansas Equal Protection Clause; and 3.) The system violated due process rights guaranteed under the State Constitution. The judgment at the lower Court had been in favor of the defendants.

In this appeal to the State Supreme Court, the plaintiffs make the following claims: 1.) the district court erred by excluding certain claims on the grounds that they were outside the pleadings; 2.) the district court erred by failing to treat the dismissal of their case as a dismissal based upon a motion for summary judgment; and 3.) the district court erred in finding the original plaintiff claims legally insufficient.

**Decision:**

Regarding the Excluded Claims: The Court determined that the district court erred in excluding the three additional constitutional claims.

Regarding Summary Judgment Procedure: The Court determined that there remained genuine issues of material fact.

Regarding Finding the Original Plaintiff Claims Legally Insufficient: The Court determined that plaintiffs claims of fact had potential to be legally sufficient and deserved further legal consideration.

The Supreme Court of Kansas reversed the district court’s finding and remanded for further proceedings based on the legal issues presented.

**Reasoning:**

Regarding the Excluded Claims:

- The original decision by the district court were excluded because they had not been presented in their original pleadings. The district court cited *Missionary Baptist*

*Convention v. Wimberly Chapel Baptist Church* (170 Kan. 684) in the decision to exclude.

- On appeal the Court indicated that the use of *Missionary Baptist Convention v. Wimberly Chapel Baptist Church* (170 Kan. 684) in this case was not appropriate because they differed in that unlike in *Missionary Baptist Convention v. Wimberly Chapel Baptist Church* (170 Kan. 684), these issues were raised by the plaintiffs at the district court level.
- Additionally, the Court addressed that the spirit of disclosure had been met and that “the consideration of the additional constitutional claims could cause the defendants surprise or unfair prejudice.”

Regarding Summary Judgment Procedure:

- Plaintiffs claim that parties were submitting briefs to the District Court to determine which legal issues would be addressed, not to determine if there was legal standing to move forward, or for the briefs to be used as the grounds for a decision.
- The Court referenced *Missouri Medical Ins. Co v. Wong* (234 Kans. 811) as a reminder that a trial court has inherent power to dispose of litigation on its own motion.
- The Court also noted *Green v. Kaesler-Allen Lumber Co* (197 Kan. 788) in which the Court determined that it must appear “conclusively that there remains no genuine issues as to a matter of fact...”
- On appeal, the Court determined that there remained genuine issues of material fact.

Regarding Finding the Original Plaintiff Claims Legally Insufficient:

Count I--Suitability: The Court reviewed the following facts presented by plaintiffs in their suitability claim:

- “The state law no longer contains educational goals or standards”;
- “The BOE has not issued any regulations containing academic standards or objective criteria against which to measure the education Kansas children receive”;
- “the amount of Base State Aide Per Pupil (BSAPP) has not kept up with inflation. For FY 2003, the BOE requested approximately \$635 million in additional educational funding”;
- “School districts are still required to raise capital outlay expenses locally, the four mill levy limit has been removed, allowing wealthier districts even greater access to capital outlay expenditures than poorer districts and this increasing funding disparities”;
- “The school finance formula provides widely different amounts of revenue to different districts”;
- “A substantial gap exists between the performance of minorities and whites, and between students in the free and reduced lunch programs and those not in programs on state tests”;
- “The 2001 legislature changes the finance formula to allow school boards to raise a greater proportion of funds with local taxes creating disparities in educational opportunity”;

- “The plaintiff school districts must raise money locally through the ‘local option budget’ (LOB) or the capital outlay fund to meet the minimum school accreditation requirements”;
- “The LOB was originally capped at twenty-five percent of the general fund budget of the local school district, and was designed to decrease as the base state aid per pupil increased, in an attempt to achieve parity statewide over time. In the 1993 legislative session, this equalizing methods was abandoned and the LOV was allowed to increase as the BSAPP increased”;
- “The plaintiff school districts raise less money per pupil with each mill levy than wealthier districts”;
- “Increased reliance on the local taxes has resulted in less advantageous education in the plaintiff school districts than in wealthier districts”;
- “The school finance formula is based on political decisions because neither the legislature nor the BOE has gathered information about the actual costs of education in the various districts”;
- “The Kansas legislature has recognized that there are inherent inadequacies and inequities in the SD-FQPA.L2001,Ch.215,10(a)”;
- “Young people nowadays need additional technological skills to compete favorably in the global society.”

#### **Legal Standard Used in Decision:**

The plaintiffs’ original claims were based in language of the Kansas Education Clause, namely the word *suitable*. Additionally, plaintiffs made claims that the system violated the Kansas Equal Protection Clause as well as the Due Process rights found within the Kansas Constitution.

#### **Financial Concept Used in Decision:**

The suitability claims made by the plaintiffs include three financial concepts within their claims. The discussion of impoverished versus wealthy school districts having various funding ability based on local taxation is a discussion of Horizontal Equity in that addresses differences in resources unrelated to educational need, specifically wealth. The plaintiff claims regarding achievement gaps is a discussion of Pure Vertical Equity because it asserts sufficient differences in resources to accommodate educational need measured against outcome standard, but does not make a determination regarding the level of that standard. Finally, the call for cost analysis of a suitable education is a Pure Adequacy issue in that it seeks an answer to how much funding would need to be within a system to meet a minimum outcome standard.



**Case Title:** *Nebraska Coalition for Education Equity and Adequacy v. Heineman* (731 N.W.2d 164)

**Full Citation:**

Supreme Court of Nebraska.  
The NEBRASKA COALITION FOR EDUCATIONAL EQUITY AND ADEQUACY  
(COALITION), on its own behalf and on behalf of its members, et al., Appellants and Cross-  
Appellees  
v.  
David HEINEMAN, in his official capacity as Governor of the State of Nebraska, et al.,  
Appellees and Cross-Appellants.

**State:** Nebraska

**Court:** Supreme Court of Nebraska

**Decision Date:** May 11, 2007

**Plaintiff Claims:**

Plaintiffs sought a declaration that Nebraska's Constitution requires "an education which provides the opportunity for each student to become an active and productive citizen in our democracy, to find meaningful employment, and to qualify for higher education;" and a declaration that Nebraska's education funding system is unconstitutional and an injunction enjoining state officials from implementing the system.

**Decision:**

The Court ruled that it cannot determine what level of public education the Legislature must provide, nor can it create a standard of "quality."

**Reasoning:**

- The Constitutional clauses in question were the religious freedom clause which reads, "religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the Legislature to pass suitable laws...to encourage schools and the means of instruction" and on the free instruction clause which reads, "The Legislature shall provide for the free instruction in the common schools of the state of all persons between the ages of five and twenty-one years."
- The Coalition alleged that plaintiff districts were unable to adequately pay and retain teachers, purchase necessary textbooks, equipment, and supplies, replace or renovate facilities; and offer college-bound courses or adequate services for special education, English language learners and vocational programs. They also alleged that a significant number of students did not graduate and that a significant number were academically deficient on assessments.

**Regarding Justiceability:**

- The Court referenced its decision in *Shineman v. Board of Education* (42 N.W.2d 168) in which parents of five-year-olds contended their constitutional rights were violated because districts did not provide kindergartens and denied access to first grade to five-

year-olds. The Court ruled in that case that the free instruction clause did not provide five-year-olds such a right outside of what was determined by the Legislature.

- The Court also referenced *Gould v. Orr* (506 N.W.2d 349). The Court indicated that *Gould* determined that the Court has jurisdiction, but that differs from determining that an issue is justiciable.
- The Court cited the U.S. Supreme Court decision of *Baker v. Carr* (369 U.S. 211) as a standard for justiciability. The Court ruled under the second *Baker* criteria that the only elements of public schools that can be constitutionally enforced by the Court is the mandate that education must be free and available to all children.

Regarding Adequacy:

- The Court noted that there was a purposeful absence of adjective qualifiers in the State Education Clause.

**Legal Standard Used in Decision:**

The Plaintiffs were using two Education Clauses within the State Constitution.

**Financial Concept Used in Decision:**

This was a request by the plaintiffs at an Adequacy claim, but the decision was made based on justiciability.

**Case Title:** *Oklahoma Education Association v. State* (158 P.3d 1058)

**Full Citation:**

Supreme Court of Oklahoma

OKLAHOMA EDUCATION ASSOCIATION; Independent School District No. I-07 of Rogers County, Oklahoma, a/k/a Foyil Public Schools; Independent School District No. I-41 of Oklahoma County, Oklahoma, a/k/a Western Heights Public Schools; and Independent School District No I-05 of Tulsa County, Oklahoma, a/k/a Jenks Public Schools, Plaintiffs/Appellants  
v.  
STATE of Oklahoma, ex rel. The OKLAHOMA LEGISLATURE; Senator Mike Morgan, In His OFFICIAL Capacity as President Pro Tempore of the Oklahoma State Senate; and Representative Todd Hiatt, In His Official Capacity as Speaker of the House of Representatives of the Oklahoma Legislature, Defendants/Appellees

**State:** Oklahoma

**Court:** Supreme Court of Oklahoma

**Decision Date:** May 8, 2007

**Plaintiff Claims:**

Plaintiffs contend the existing funding scheme is in violation of the State Education Clause, and that adequate education is not being provided.

**Decision:**

The Court ruled that plaintiffs did not have sufficient standing and that there was no constitutional mandate for Oklahoma's students to be provided an adequate education. The Court decided that the issues at hand were not justiciable because of separation of powers.

**Reasoning:**

- The Court identified three questions before the Court:
  1. Have the plaintiffs alleged sufficient facts to show that they have standing to assert violations of the rights of Oklahoma students based on the Oklahoma Constitution?
  2. Does the State have a constitutional and statutory duty to provide Oklahoma's students with a basic, adequate education, and
  3. Do the substantive issues before for this Court present a non-justiciable, separation of powers question.

Regarding Standing:

- The OEA asserted that they had standing because their members had standing to sue in their own right.
  - The plaintiffs assert injury to Oklahoma students and no member of OEA is a student of the public school system in Oklahoma.
  - The Court ruled OEA did not have standing.
- The plaintiff school districts assert they have standing by claiming that all Oklahoma students are being denied a fundamental right.

- The Court concluded that the plaintiff school districts have not shown that any of their students have sustained injury.

**Regarding Separation of Powers:**

- The Court ruled that it has no authority to consider the desirability, wisdom or practicability of fiscal legislation.

**Legal Standard Used in Decision:**

The State Education Clause was the basis of the plaintiffs' claims.

**Financial Concept Used in Decision:**

The best categorization for this case is one of Adequacy because it was an attempt to review the adequacy of funding system-wide.

**Case Title:** *Olsen v. State*

**Full Citation:**

Supreme Court of Oregon  
Shauna OLSEN, a minor, et.al., Appellants  
v.  
STATE of Oregon, Respondents

**State:** Oregon

**Court:** Supreme Court of Oregon

**Decision Date:** September 3, 1976

**Plaintiff Claims:**

The plaintiffs contended that the public school financing system in the state of Oregon violated the Equal Protection Clause in Oregon's State Constitution, Article I, s20 of the Oregon Constitution. The plaintiffs' second claim was that Article VIII, s 3, of the Oregon State Constitution, requiring a "uniform and general system" of schools was also violated by the school funding system. Because the Oregon funding system relied on property wealth, plaintiffs contended that the amount of money for education as well as the educational opportunities were unequal based on property wealth of districts across the state.

**Decision:**

- Using the rational basis standard and local control as the State's rational basis, the Court found that the funding system did not violate the Equal Protection Clause of the Oregon State Constitution.
- Claiming that defining "uniform" to mean equal financing was not a fair or an appropriate working definition within the context of the State Constitution, the court found that the funding system did not violate Article VIII, s 3, of the Oregon State Constitution, requiring a "uniform and general system" of schools.

**Reasoning:**

Regarding the Plaintiffs' Equal Protection Claims:

- The state of Oregon had a state-fixed "minimum acceptable level of school support," which was a minimum level that the state mandated be spent per pupil. Additionally, the state mandated a minimum levy for each district in order for it to qualify for equalization funds. The Court also noted the legal option available through the State's Intermediate Education District (IED) Board to reorganize school districts and boundaries.
- The Western and Eastern sides of the state of Oregon managed the taxation of timber significantly differently, meaning timber was excluded from taxable property figures in eastern Oregon, and in western Oregon it was figured at a rate of thirty percent.
- Historically, the Oregon Court had found that the Equal Protection Clause of the Oregon Constitution and that of the Fourteenth Amendment of the U.S. Constitution carry the same provisions and principles.
- The Court cites *San Antonio v Rodriguez* (411 U.S.1), reviewing the reasoning and the decision that the Texas funding system did not violate the Fourteenth Amendment.

- The Court cites other state level cases in which decisions on the matter varied. Specifically, the Court references *Serrano v. Priest* (5 Cal.3d 584) out of California and *Robinson v. Cahill* (62 N.J. 473) out of New Jersey.
- The Court indicates a tendency to agree with the Court in New Jersey that simply because a clause of the Oregon State Constitution focuses on education, it does not make education a fundamental interest because in Oregon many laws are inserted to the State Constitution, and this issue had not been addressed in that manner.
- The Court indicates that it favors a rational basis evaluation, weighing the “interest impinged upon, educational opportunity” against the “state objective in maintaining the present system of school financing, local control.”
  - The poorest children are not completely deprived of an education, but do not have the “tools and programs in the same number or quality” as those in the wealthier districts.
  - “The legislature has not expressly stated any objective that is to be attained by its system of school financing—“assuming that of maintaining local control.”
  - The wealthier districts may have more local control (via taxation options), but “it is not that the poorer districts have no local fiscal control”
- If depending on local taxation of schools is unconstitutional, that would carry to other services such as fire protection and street management.
- The plaintiffs claim that other, fairer, funding options exist. The Court indicates that the existence of such options does not automatically render the current option unconstitutional.

#### Regarding the Plaintiffs’ State Education Clause Claims:

- The plaintiffs’ claim centered around the adjective “uniform,” claiming that is means equal amounts of available financing. The Court suggested that such a definition of uniform would also mean equal facilities, equal programs, etc. The Court, therefore, did not equate “uniform” with equal funding.

#### **Legal Standard Used in Decision:**

- Equal Protection Clause in Oregon’s State Constitution, Article I, s20 of the Oregon Constitution.
- Article VIII, s 3, of the Oregon State Constitution, requiring a “uniform and general system” of schools.

#### **Financial Concept Used in Decision:**

- Both the Equal Protection Clause and the Education Clause claims made by the plaintiffs were essentially Horizontal Equity claims because they were grounded in the notion that the differences between funding for districts were unrelated to educational need, but instead were based in property wealth.
- The Court’s decision was also essentially a decision based on Horizontal Equity.
- The concept of Adequacy is hinted at in the Court’s mention of the state fixed “minimum acceptable level of school support,” which was a minimum level that the state mandated be spent per pupil, and the state-mandated a minimum levy; however, the decision as it is written was not based on Adequacy.

**Case Title:** *Opinion of the Justices (Reformed Public School Financing System* (145 N.H. 474)

**Full Citation:**

Supreme Court of New Hampshire  
OPINION OF THE JUSTICES (Reformed Public School Financing System)

**State:** New Hampshire

**Court:** Supreme Court of New Hampshire

**Decision Date:** December 7, 2000

**Plaintiff Claims:**

The New Hampshire Senate requested that the Supreme Court review a proposed bill with regard to its constitutionality. Specifically, the Senate asked the following two questions:

- Would the enactment of SB462 FN A LOCAL satisfy the requirements of Part II, Articles 5, 6, and 83 of the New Hampshire Constitution?
- Would the enactment of SB462 FN A LOCAL violate any other provision of the New Hampshire Constitution?

**Decision:**

- The Court had historically denied general inquiries regarding constitutionality and, therefore, declined to address the Senate's second question.
- The Court found that the proposed bill did not satisfy the requirements of part II, articles 5, 6, and 83 of the New Hampshire Constitution because the property taxation was not equal and proportional across the state as had been the mandate by the Court in *Claremont School District v. Governor* (142 N.H. 462) (Claremont II).

**Reasoning:**

- The proposed bill would raise and distribute \$750,000,000 in state financial aid to districts in response to the mandate created by the Court's decision in *Claremont School District v. Governor* (142 N.H. 462) (Claremont II).
- Constitutional Review:
  - Part II, Article 5:
    - States that the legislature can "impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and residents within the said state."
  - Part II, Article 6:
    - States that "the public charges of government, or any part thereof, may be raised by taxation."
  - Part II, Article 83:
    - States that "[k]nowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this

government, to cherish the interest of literature...and all...public schools...”

- Initial review by the Court of significant elements of *Claremont School District v. Governor* (142 N.H. 462) (Claremont II) decision:
  - The *Claremont II* decision interpreted Part II, Article 83 to “impose a duty on the State to provide a constitutionally adequate education for every educable child in the public schools in New Hampshire and to guarantee adequate funding.”
  - Additionally, *Claremont II* decision held that “to the extent that property tax is used to comply with the mandate of Part II, Article 5, it must be administered in a manner ‘that is equal in valuation and uniform in rate throughout the State.’”
- The Court review of the Senate questions found that the proposed Senate Bill “contradicts the mandate of Part II, Article 83, which imposes upon the State the exclusive obligation to fund a constitutionally adequate education. The State may not shift any of this constitutional responsibility to local communities as the proposed bill would do.”
- The Court indicated that under the proposed bill taxpayers, across the state would be paying property tax at disproportionate and unequal rates.
- Reiteration of key components of the *Claremont School District v. Governor* (142 N.H. 462) (Claremont II) decision by the Court for the Senate’s purposes:
  - “The New Hampshire Constitution imposes solely upon the State the obligation to provide sufficient funds for each school district to furnish a constitutionally adequate education to every educable child.” Beyond constitutional adequacy, yet to be defined, the legislature may authorize local schools to dedicate additional resources beyond what is required.
  - There is no ruling for uniform per pupil expenditures. “The State mandates statewide adequacy--not statewide equality. It is, however, the State’s obligation to underwrite the cost of an adequate education for each educable child’
  - All adequacy funding local districts receive by the state must be used for education.
  - “The content of a constitutionally adequate education must be defined, in the first instance, by the legislature.”

#### **Legal Standard Used in Decision:**

State Education Clause

#### **Financial Concept Used in Decision:**

- The concept of “extra burden” being paid by some districts over others as a result of disproportionate taxation is a Horizontal Equity concern.
- However, because the “taxation” disparities would come as a result of the State’s attempting to reach an adequacy standard, this review of the bill also addresses the Pure Adequacy concept.



**Case Title:** *Pauley v Kelly* (255 S.E.2d 859)

**Full Citation:**

Supreme Court of Appeals of West Virginia  
Terry Gene PAULEY, etc., et al.  
v.  
John H. KELLY, Treasurer, State of West Virginia, et al.

**State:** West Virginia

**Court:** Supreme Court of Appeals of West Virginia

**Decision Date:** February 20, 1979

**Plaintiff Claims:**

The plaintiffs claim that the West Virginia school finance system violates Article XII, Section I of the West Virginia State Constitution which requires a “thorough and efficient” education. Additionally, the plaintiffs contend that the state education finance system violates the equal protection of the law. The plaintiffs’ contentions are based in what they perceive as inequalities in opportunity and achievement as a result of unequal distribution of annual funding, facilities, curriculum and personnel between property-poor districts and property-wealthy districts.

**Decision:**

The Court reversed the dismissal of the case and remanded the case with specific inquiries for the lower courts to address.

**Reasoning:**

- The lower courts had dismissed the case based on the idea that classification the court was being asked to consider was not one of wealth or of social class, but instead only one of geography (district lines). The Supreme Court determined that the dismissal was improper because the legal theories being present were not deficient and warranted legal consideration.
- The lower court made the following findings regarding plaintiff claims:
  - The facilities, curricula, and other services provided in Lincoln County schools failed to meet many of the state and national standards.
  - Physical plant inadequacies in most of Lincoln County’s schools were significant enough to constitute potential threats to the health and welfare of students.
  - The absenteeism and dropout rates were significantly higher in poorer property-wealth districts than in the wealthier districts.
  - Assessment scores and post-secondary successes were much lower in poor-property districts than in the wealthier districts.
  - Scores on standardized tests in Lincoln County were below the state and national averages in almost every category.
  - A strong positive correlation existed between the amount of spending in districts and the educational success rates.
  - Counties with low property-wealth could not offer the quality of educational program offered in wealthier districts because the funding for districts was dependent in large part on local property tax revenue.

- State and federal funding do not eliminate the disparity in available resources between property-poor and property-wealthy districts.
- A specific area of inadequacy in Lincoln County is that of special education.

#### Equal Protection Claims

- Citing *Rodriguez* (411 U.S.1), the Court noted that federal equal protection rights do not apply, but that the State Constitution equal protection standard must be considered separately and can require higher standards of protection than those offered at the federal level.
- The State Supreme Court found that education is a fundamental constitutional right within the State Constitution; therefore, the court applied the strict scrutiny standard.

#### Education Clause Claims

- The Court review a myriad of cases from various states and determined that across the historical considerations of courts' decisions, "there is ample authority that courts will enforce constitutionally mandated education quality standards.
- The Court turned to defining the terms "thorough" and "efficient" and "education."
  - The Court defines "a thorough and efficient system of schools" as "It develops, as best the state of education expertise allows, the minds, bodies, and social morality of its charges to prepare them for useful and happy occupations, recreation and citizenship, and does so economically."
  - The court defines that this definition mandates "the development of every child to his/her capacity of (1) literacy; (2)ability to add, subtract, multiply and divide numbers; (3)knowledge of government and to the extent that the child will be equipped as a citizen to make informed choices among persons and issues that affect his own governance; (4)self-knowledge and knowledge of his/her total environment to allow the child to intelligently choose life work and to know his/her options; (5)work-training and advanced academic training as the child may intelligently choose; (6)recreational pursuits; (7)interests in all creative arts such as music, theatre, literature, and the visual arts; (8) social ethics both behavioral and abstract, to facilitate compatibility with others in this society."
  - The Court determined that there were support services implicit in such a definition as well. "(1) Good physical facilities, instructional materials and personnel; (2)careful state and local supervision to prevent waste and to monitor pupil, teacher, and administrative competency."
- The Court chose to avoid making a definitive judgment regarding if the State financing system failed to provide a thorough and efficient education in the poorer counties because they felt expert involvement and legislative roles were fundamental elements to the creation of such standards.
- The Court did note that the education system in Lincoln County was "woefully inadequate," and the Court indicated that they would be surprised if it could meet such a standard if it was set.
- The Court developed several lines of inquiry on remand, asking the lower courts to further investigate the following issues:
  - Regarding the Financing System: Are there basic inequities in the seven-factor computation by which the foundation formula aid is computed?
  - Regarding Supplemental State Aid: Does a system of systemic supplemental state aid compensate in a manner that allows them to reach the established standards?

- Regarding Tax Revenues from Special or Excess Levy on Property: The Court determined that any revenue generated from excess levies voted by citizens were not subject to attack under the Equal Protection Clause of the State Constitution; however, it may not be excluded from consideration in the “thorough and efficient” considerations.
- Regarding The Property Appraisal System: It should be determined if property-poor counties are assessing their properties adequately and if appropriate appraisal provisions are being followed in each county.
- Regarding The State School Building Fund: Are the funds allocated in a manner that will provide essential physical facilities to meet the thorough and efficient standard?
- Regarding the Role of the State Board of Finance: The trial court should investigate if the State Board of School Finance is fulfilling its legal obligations.
- Regarding the Roles of the State Superintendent and the State Board of Education: The trial court should require development of the facts about the performance of each party’s duties.
- Regarding the Local Role: The trial court should determine that the Lincoln County Board of Education is fulfilling its responsibilities imposed by the thorough and efficient standard in administering a school system.

**Legal Standard Used in Decision:**

- The Court created a standard or strict scrutiny to be applied on remand regarding the Equal Protection Claim.
- Additionally, the Court created a specific standard of “thorough and efficient” within the State Education Clause.

**Financial Concept Used in Decision:**

- The analysis of property-poor versus property-wealthy districts via the equal protection claim is a Horizontal Equity claim.
- The standards created by the court regarding “thorough and efficient” are essentially pure Adequacy standards because they address the systemic look at what would be standard acceptable outcomes.

**Case Title:** *Pendelton School District v. State* (345 Or. 596)

**Full Citation:**

Supreme Court of Oregon,  
En Banc.

PENDELTON SCHOOL DISTRICT 16R; Eugene School District 4J; Crow-Applegate-Lorane School District 66; Coos Bay School District 9; Corvallis School District 509J; Josephine County Unit/Three Rivers School District; Astoria School District 1 C; Creswell School District; Lincoln County School District; Amity School District 4J; Reynolds School District #7; Coquille School District #8; Parkrose School District #3; Pine Eagle School District #61; Jefferson School District; McKenzie School District; Alexandra Kiesling and Timothy Kiesling, minors, by Amy Cuddy, their guardian ad litem; Grace Peyerwold, a minor, by David and Maria Perwold, her guardians ad litem; Marshall Taunton and Harrison Taunton, minors, by Tim and Wendy Taunton, their guardians ad litem; and Benjamin Sherman and Claire Sherman, minors, by Larry Sherman and Diane Nichol, their guardians, ad litem

v.

STATE of Oregon, Defendant-Respondent, Respondent on Review

**State:** Oregon

**Court:** Supreme Court of Oregon

**Decision Date:** January 23, 2009

**Plaintiff Claims:**

The plaintiffs are eighteen school districts and seven school children who sought a declaratory judgment that Article VIII, Section 8 of the Oregon Constitution requires that the legislature fund the school system at a level sufficient to meet certain quality educational goals.

**Decision:**

The Court ruled that while a partial declaratory statement regarding the amount of funding was possible, no other judicial action was appropriate.

**Reasoning:**

- In November of 2000, Oregon voters approved Article VII, Section 8 which reads: The Legislative Assembly shall appropriate in each biennium a sum of money sufficient to ensure that the state's system of public education meets quality goals established by law, and publish a report that either demonstrates the appropriation is sufficient, or identified the reasons for the insufficiency, its extend, and its impact on the ability of the state's system of public education to meet those goals."
- In 2001, the legislature responded to Article VII, Section 8 by identifying pre-existing statutes as setting the quality goals for public schools and also established the Quality Education Commission (QEC) to determine the amount of funding needed to meet those goals.
- The legislature has historically not funded education to the levels recommended by the QEC.

- As a result, the plaintiffs first claim is that the legislature had failed to appropriate the sum of money for 2005-2007 and sought a declaratory judgment that the failure was a violation of Article VIII, Section 8.
- The second claim made by plaintiffs contended that Article VIII, Section 3 which reads, “The Legislative Assembly shall provide by law for the establishment of a uniform and general system of Common schools” required the legislature to appropriate sufficient funds to maintain an adequate system. The suit sought a declaratory judgment that the standard had not been met with the 2005-2007 funding appropriations.
- In their third claim, plaintiffs requires a level of relief, requesting that for the 2007-2009 biennium the legislature be mandated to fund at the recommend level of the QEC.

#### Regarding Justiciability:

- The state contended that it was unconstitutional for the judicial branch to enjoin the legislation from passing unconstitutional legislation in the future.
- Because the question at hand involved “a set of present facts” and not “an abstract inquiry about a possible future event,” the Court ruled the matter justiciable.

#### Regarding Article VIII, Section 8:

- Plaintiffs contended that the word *shall* imposes an absolute duty to appropriate a specified level of funding.
  - The lower court indicated that *shall* may only extend to mean “may” but the Supreme Court disagreed.
  - The Court in this appeal interpreted *shall* to be a directive from the voters.
- The Court recognized that the two parts of Article VIII, Section 8 are in conflict with each other. One is a directive to fund and the other a directive to provide explanation if unable to fund.
- The Court determined that they could provide a limited declaratory judgment that one half of Article VIII was violated; but because the other half allows for that violation, no injunctive relief is appropriate.

#### Regarding Article VIII, Section 3:

- Plaintiffs were contending that Section 3 leans on quality goals established in Section 8 of Article VII.
- The Court disagreed, indicating that because Section 8 included a reporting requirement if the guidelines could not be met there could not be a mandate exclusive of the “opt out” provision.
- The plaintiffs also claimed that Section 3 had its own requirement of adequacy within it.
  - The Court noted that Section 3 does not include the word *adequate*, but instead uses “uniform and general.”
  - The Court noted that while “common schools” does imply some level of basic adequacy, there is not mandate of specific adequacy standards within the Article.

#### **Legal Standard Used in Decision:**

This case was decided in totality on the State Education Clause.

**Financial Concept Used in Decision:**

Because the question at hand was the overall level of state funding within a state, it is essentially an Adequacy claim.

**Case Title:** *Robinson v. Cahill* (62 N.J. 473)

**Full Citation:**

Supreme Court of New Jersey  
Kenneth ROBINSON, an infant, by his parent and guardian ad litem, Ernestine Robinson, et al,  
Plaintiffs-Respondents  
v.  
William T. CAHILL, Governor of the State of New Jersey, et al., Defendants--Appellants

**State:** New Jersey

**Court:** Supreme Court of New Jersey

**Decision Date:** April 3, 1973

**Plaintiff Claims:**

State & Federal Equal Protection:

Plaintiffs contend that the variation of the funding available funding between school districts was a violation of both the Federal and State Equal Protection Clauses.

State Taxation Amendments:

Plaintiffs claim that the amendments reading, "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value" (Art. IV, s7,12) and "Property shall be assessed for taxation under general laws and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value" (Art.Viii,s1,1) require that taxation for education should be uniform state-wide.

Education Amendment: Plaintiffs claim that the amendment in the State Constitution that reads, "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of five and eighteen years" (Art.Viii, s4, 1) requires a State level tax burden to fund public schools.

**Decision:**

Federal Equal Protection Claim:

- Citing *San Antonio v. Rodriquez* (411 U.S.1), the Court did not see the need to further address the federal Equal Protection Claim as it was presented in this case.

State Equal Protection Claim:

- The Court determined that the State Equal Protection provisions were not appropriate to be applied in this case.

State Education Clause Claim:

- The Supreme Court agreed with the lower court that the standard of "thorough and efficient" was not met with the existing funding structure based on dollar input per pupil discrepancies.

- The Supreme Court’s review of the 1970 Act (which was the funding formula being transitioned in at the time) indicated that the 1970 Act as reviewed would not meet the constitutional standard.
- The Court stated multiple times that if the State yields the process of taxation for public schools to the local level, it is fine; but that ultimately it is the State’s responsibility to ensure that the constitutional mandate is met.

#### **Reasoning:**

- Citing *San Antonio v. Rodriguez* (411 U.S.1), the Court did not see the need to further address the federal Equal Protection Claim as it was presented in this case.
- In reviewing if the State Constitution’s Equal Protection provision should be invoked, the Court made the determination that rational basis should be the standard for the decision because they determined wealth should not be considered a “suspect class” in this context and that education does not meet the standard of being a “fundamental right” either.
- With regard to the Equal Protection claims, the Court noted that other services such as fire and police protection, as well as water and public health services, would need to be considered in the same vain if the claim were affirmed.
- With regard to the plaintiff claims regarding the taxation amendments, the Court determined the tax clause does not prevent state-level government from delegating responsibilities to local-level government because “local government is simply an arm of the State.”
- Considering the clause in the taxation amendment that reads, “shall be assessed according to the same standard of value,” the Court did not see it as related to education as it was written to address railroad municipalities, and the intent was to ensure that “all taxable property within a municipality shall bear the same tax burden of that municipality.”
- Considering the constitutional phrase “thorough and efficient,” the Court determined that its intent was to provide “equal opportunity for children,” not necessarily taxpayers. Additionally, the Court noted that regardless of the reason for any shortfall from that standard, it remains the burden of the State to ensure that the constructional standard is met.
- The Court found that while, by nature, local funding may cause some level of discrepancy in resources, those discrepancies must only be found above and beyond the mandated “thorough and efficient.”
- In looking for a standard on which to base their decision, the Court determined that dollar input per pupil was the only appropriate one to use because they could determine no other valid criterion for measuring “thorough and efficient.”

#### **Legal Standard Used in Decision:**

Although the plaintiffs asserted both State and Federal Equal Protection claims, the only legal standard ultimately used after review by the Court was that of the Education Clause in the State Constitution.

#### **Financial Concept Used in Decision:**

The Court’s decision included discussion of providing an adequate education to meet the “thorough and efficient” standard; however, the decision was made as one of Horizontal Equity



because it was based on how taxation yields discrepancies in per pupil inputs without much consideration of outcomes.

**Case Title:** *Roosevelt Elementary School District No. 66 v. Bishop* (179 Ariz. 233)

**Full Citation:**

Supreme Court of Arizona, in Banc.

ROOSEVELT ELEMENTARY SCHOOL DISTRICT NUMBER 66; Superior Unified School District Number 15; Isaac Elementary School District Number 5; San Carlos Unified School District Number 20; Evangelina Miranda, individually and as a parent of Mariela and George Dorame, minor children; and Manuel Bustamante, individually and as a parent of Gabrielle and Jack Bustamante, minor children; Marco Antonio Ramirez, individually and as a parent of Elizabeth, Mark, and Lydia Ramirez, on behalf of themselves and all others similarly situated,  
Plaintiffs/Appellants

v.

C. Diane BISHOP, Superintendent of Public Instruction, in her official capacity; State Board of Education, State of Arizona, Defendants/ Appellees

**State:** Arizona

**Court:** Supreme Court of Arizona

**Decision Date:** July 21, 1994

**Plaintiff Claims:**

State Equal Protection Claim:

- Plaintiffs assert that because education is the subject of an entire article in the Arizona Constitution, it should be considered a fundamental right under that Constitution.
- The districts and parents assert that the school finance system in place violated the Equal Protection Clause, called “the privileges or immunities clause” in Arizona, because children are discriminated against based upon where they live. The claim that the State could not show a compelling state interest in maintaining a property tax-based funding system.

State Education Clause Claim:

- Plaintiffs claim that in order to fulfill the standards of Article XI of the Arizona Constitution, the State must create a funding scheme that is general and uniform.

**Decision:**

State Equal Protection Claim:

- The Court avoids addressing the conflict by stating that the issue at hand is better addressed by focusing on the area of the Constitution that specifically addresses education.

State Education Clause Claim:

- The Court determined that because forty-five percent of the funding system created by the state relied on property value which varied significantly across the State, the scheme itself created disparities and, as a result, violated Article XI of the Arizona Constitution.
- The Court charged the Legislature with developing a funding scheme that would meet the “general and uniform” standards.

**Reasoning:****State Equal Protection Claim:**

- The privileges or immunities clause reads, “No law shall be enacted granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations” (Ariz. Const. Art. II. 13).
- The districts contend that education is a fundamental right and deserves a “strict scrutiny” standard while the State contends that the Court’s prior decision in *Shofstall v. Hollins* (110 Ariz. 88) calls for a rational-basis test.
- The Court avoids addressing the conflict by stating that the issue at hand is better addressed by focusing on the area of the Constitution that specifically addresses education.

**State Education Clause Claim:**

- “The Legislature shall enact such laws as shall provide for the establishment and maintenance of a general and uniform public school system, which system shall include kindergarten schools, common schools, high schools, normal schools, industrial schools, and a university...” (Ariz. Const. Article XI, 1).
- The plaintiffs claim it is the State’s obligation to ensure that the schools are funded in a general and uniform manner. The State asserts that meeting such a standard is the local districts’ responsibility. The Court determined that Article XI specifically mandates that the ultimate responsibility for such a standard is the State’s. Although some delegation of duty can occur by the State, the State cannot delegate away its constitutional responsibility.
- In reviewing various cases from various states, the Court determined that “general and uniform” need not mean *identical*. “Funding mechanism that provide sufficient funds to educate children on substantially equal terms” can meet such a standard, but systems “which themselves create gross disparities are not general and uniform” (179 Ariz. 233).
- The Court determined that once all districts had reached a level of adequacy, it would not be inappropriate for local districts to raise funds above and beyond the standard. The Court, however, did not feel that this case provided ground for the Court to define adequacy of education.

**Legal Standard Used in Decision:**

The State Education Clause, specifically the phrase “general and uniform” was the legal basis for the decision.

**Financial Concept Used in Decision:**

- The question addressed by The Court is if the funding system itself created input discrepancies. Such a question is one of Horizontal Equity because it addresses differences in funding based on property wealth of districts versus educational need.
- There was a small amount of pure Vertical Equity addressed by the Court in its discussion of districts’ being able to raise funds above and beyond a certain standard that was to be met by all. This implies an outcome consideration, but the Court chooses not to address the adequacy/horizontal equity element in detail.

**Case Title:** *Rose v. Council for Better Education, Inc.* (790 S.W.2d 186)

**Full Citation:**

Supreme Court of Kentucky  
John A. ROSE, President Pro Tempore of the Senate; Donald J. Blanford, Speaker of the House  
of Representatives, Appellants  
v.  
The COUNCIL FOR BETTER EDUCATION, INC.  
et al., Appellees

**State:** Kentucky

**Court:** Supreme Court of Kentucky.

**Decision Date:** June 8, 1989

**Plaintiff Claims:**

- Plaintiffs claimed that the State Legislature had failed to meet its constitutional obligation to “provide an efficient system of common schools throughout the state.”
- The Plaintiffs contended that the school financing system was too heavily dependent on local resources and created inappropriate disparities. The contention was that such disparities violated Sections 1, 3, & 183 of the Kentucky State Constitution.
- Additionally, the Plaintiffs contended that the disparities created by the existing school funding system violated both Federal and State Equal Protection Provisions.

**Decision:**

- The Court found that the General Assembly had failed to meet the constitutional requirement set forth in Section 183 of the Kentucky Constitution mandating “an efficient system of common schools throughout the state.” Specifically, the Court noted that the existing system was not “efficient.”
- The Court identified seven specific capacities for students receiving an “adequate” education and created nine specific standards of an “efficient system of common schools,”
- The Court mandated that the General Assembly create a system that meets the obligation as determined in this case.

**Reasoning:**

- In the language of their decision regarding the analysis of “efficient,” the Court indicated that students should receive a “proper and *adequate*” education (emphasis added).
- The Court cites *Brown v. Board of Education* (347 U.S.483) indicating that equal education must be provided to each student.
- Defendants claimed that the issue was political, not justiciable as presented, specifically with only certain representative school districts as plaintiffs and certain legislators and politicians named as defendants.
- Defendants also claimed that educational laws passed in 1985 had inferentially corrected the claims being outlined by the plaintiffs.

- The trial judge from the lower court prepared three lengthy documents summarizing the various facts and issues of the case, which the Court reviewed in detail.
  1. “Findings of Fact, Conclusions of Law, and Judgment” was submitted by the trial court judge on May 31, 1988, identifying four primary issues of analysis and providing fact and conclusions about each.
    - “The necessity of defining the phrase ‘an efficient system of common schools.’”
    - Whether education is a constitutional right under the Kentucky Constitution.
    - If the existing school funding formula violated Sections 183 & 4 of the Kentucky Constitution.
    - If “poor” students are being denied equal protection.
  2. The trial judge created a second document in which he assigned members to an advisory panel to advise him on the matter.
  3. The final document summarized the opinion of the lower court and was the primary basis for the appeal to the Supreme Court of Kentucky.
    - The lower court defined an efficient system of schools as a “tax-supported, coordinated organization, which provides a free, adequate education to all of its students throughout the state, regardless of geographical location or local fiscal resources” and that an efficient system of schools “must have ‘substantial’ uniformity.”
    - More specifically, the lower court outlined what an efficient school system must provide.
      - “...to provide sufficient physical facilities, teachers, support personnel, and instructional materials to enhance the educational process. And adequate school system must also include careful and comprehensive supervision at all levels to monitor personnel performance and minimize waste.”
      - It is solely the General Assembly’s responsibility to create a system that fulfills the standard.
- The Court reviewed the history of State legislation regarding school funding, coming to the conclusion that, “every forward step taken to provide funds to local districts and to equalize money spent for the poor districts has been countered by one backward step.”
- The Court states that despite minimal provisions in the funding formula, large variations exist creating “unequal educational opportunities.” The Court discussed differences in inputs, namely programs offered, as well as outcomes produced, specifically addressing achievement test scores.
- Various comparisons were reviewed from state-to-state, and the determination was made that “Kentucky’s educational effort as being inadequate and well below the national effort.” In addition to reviewing testimony that the property-poor districts had inadequate funding, the Court heard testimony that even the highest wealth districts were inadequately funded.
- The Court cited statute that gives local school boards political power and, therefore, allows for them to become plaintiffs in a lawsuit.
- The Court determined that in order to sue the General Assembly, it was not necessary to name each member.

- The Court reviewed documents in which the framers of Section 183 summarized the intent of the legislation.
- Additionally, the Court reviewed previous cases relating to Section 183 and drew eight key conclusions:
  1. The General Assembly is mandated, is duty bound, to create and maintain a system of common schools throughout the state.
  2. The expressed purpose of providing such service is vital and critical to the well being of the State.
  3. The system of common schools must be efficient.
  4. The system of common schools must be free.
  5. The system of common schools must provide equal educational opportunities for all students in the Commonwealth.
  6. The state must control and administer the system.
  7. The system must be, if not uniform, “substantially uniform” with respect to the state as a whole.
  8. The system must be equal to and for all students.
- The Court determined that the state’s burden to meet the educational responsibilities does not diminish with financial burden.

Regarding the Justiciability of the Issue:

- The Court recognized that the question at hand was a definition of *efficient* as it presents itself in the State Constitution, which they determined to be exactly their role, to interpret the Constitution. Therefore, the Court determined that it was their role to define *efficient*.
- Additionally, the Court cited *Pauley v Kelly* (162 W.Va 672) in which a similar decision was made.

Regarding the Definition of *Efficient*:

- The Court reviewed the testimony of the experts and summarized the testimony to determine that *efficient* system of common schools has the following features:
  1. The system is the sole responsibility of the General Assembly
  2. The tax effort should be evenly spread.
  3. The system must provide the necessary resources throughout the state—they must be uniform.
  4. The system must provide an adequate education.
  5. The system must be properly managed.
- The Court determined that incorporating local taxation into a funding plan was acceptable, but did not waive the General Assembly’s obligation to meet the State Constitutional requirements.
- The Court determined that “a child’s right to an adequate education is a fundamental one under our Constitution.”
- The Court identified seven capacities with which each child would be provided with under an efficient system of common schools. The Court identified these as minimum standards and stated that there is no prohibition against higher standards than these:
  1. Sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization.

2. Sufficient knowledge of economic, social, and political systems to enable the student to make informed choices.
  3. Sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation.
  4. Sufficient self-knowledge and knowledge of his or her mental and physical wellness.
  5. Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage.
  6. Sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently.
  7. Sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or on the job market.
- Ultimately, The Court defined *efficient* to mean that the system of common schools meet the following standards:
    1. The establishment, maintenance and funding of common schools in Kentucky is the sole responsibility of the General Assembly.
    2. Common schools shall be free to all.
    3. Common schools shall be available to all Kentucky children.
    4. Common schools shall be substantially uniform throughout the state.
    5. Common schools shall provide equal educational opportunities to all Kentucky children, regardless of place of residence or economic circumstances.
    6. Common schools shall be monitored by the General Assembly to assure that they are operated with no waste, no duplication, no mismanagement, and with no political influence.
    7. The premise for the existence of common schools is that all children in Kentucky have a constitutional right to an adequate education.
    8. The General Assembly shall provide funding which is sufficient to provide each child in Kentucky an adequate education.
    9. An adequate education is one which has as its goal the development of the seven capacities recited previously.
  - The Court “directed the General Assembly to recreate and redesign a new system that will comply with the standards, but withheld the finality of their decision until 90 days after the adjournment of the regular session of the General Assembly in 1990.

#### **Legal Standard Used in the Decision:**

The Court makes a point to state in the conclusion of the decision that the decision was decided “solely on the basis of our Kentucky Constitution, Section 183. We find it unnecessary to inject any issues raised under the United States Constitution or the United States Bill of Rights in this matter.”

#### **Financial Concept Used in the Decision:**

The case was presented as one of Horizontal Equity in that the claim was made that the differences in resources were related to geographical place of residence, versus educational need.

To some degree the Court addressed that issue, but in larger part the Court took the plaintiffs' claim of Horizontal Inequity and made a decision that was based in Adequacy. The Court clearly created a standard of adequate outcomes and then mandated an efficient system that gets students to those statewide outcomes. The Court did not address differentiating funding based on student or district need, so the decision remains one of pure Adequacy.



**Case Title:** *San Antonio v. Rodriguez* (411 U.S. 1)

**Full Citation:**

Supreme Court of the United States

SAN ANTONIO INDEPENDENT SCHOOL DISTRICT et al., Appellants

v.

Demetrio P. RODRIGUEZ et al.

**State:** Texas

**Court:** Supreme Court of the United States

**Decision Date:** March 21, 1973

**Plaintiff Claims:**

Plaintiffs contended in the original case, for which this is the appeal, that the school children who were members of poor families residing in school districts with low property values rights were being violated under the Federal Equal Protection Clause. The contention was that because the school funding system was highly dependent upon local property taxation, student residents of certain low property wealth areas were not being provided access to equal educational opportunities.

**Decision:**

- The Court determined that the District Court had erred and that neither a suspect classification claim nor the fundamental interest claim could be applied to this case.
- The Court determined that maintaining local control of school funding fulfilled the rational-basis needed to be in compliance with the Federal Equal Protection Clause of the U.S. Constitution.

**Reasoning:**

- The decision in front of the Supreme Court of the United States was if the District Court had ruled correctly for the plaintiffs that the Texas system of financing public education was operating to the disadvantage of a suspect class or was infringing upon fundamental rights explicitly or implicitly protected by the Constitution; thus, requiring a standard of strict scrutiny.
- The Court examined how “poor” would be categorized if it were to be considered a suspect classification. Specifically, the Court considered three categories in this analysis: 1.) poor persons whose incomes fall below some identifiable level of poverty 2.) poor as

determined because they are relatively poorer than others, and 3.) may not be poor, but who reside in relatively poorer school districts.

- The Court considered that precedents that had used wealth (or lack of) as a classification involved situations in which the individuals were completely deprived of a benefit and that the State was unable to provide an “adequate substitute” for the benefit—no precedent existed as a classification for those who received relatively less benefit based on wealth status.
- The Court indicated that the Equal Protection Clause does not require absolute equality or precisely equal advantages
  - The State contended that an adequate education was being provided by providing a basic K-12 education.
- The Court noted that families below a poverty line were scattered across multiple districts and did not necessarily live within the districts with the poorest property value.
- The plaintiffs provided research that a positive correlation existed between assessable property per pupil and levels of per-pupil spending.
- The Court determined that the Texas system did not operate to the peculiar disadvantage of any suspect class; thus that it did not lend itself to strict scrutiny analysis.
- However, the Court was left to consider if education was a “fundamental right” which would also invoke a strict scrutiny standard.
  - The Court acknowledged the importance of education, but made it clear that the question at hand was if the Constitution specifically outlined education as a fundamental right.
  - The Court determined that education was not explicitly or implicitly outlined in the Constitution as a right.
  - In response to plaintiff assertions that it should be considered a fundamental right because it is provided by the state and is intertwined with fundamental rights (such as speech and voting), the Court responded that even if that standard was used, the existing education provided for all in Texas would qualify a child to leave prepared to utilize free speech and exercise their right to vote.
- The Court determined that a rational basis scrutiny standard was the best fit for the decisions because no suspect class or fundamental right was in consideration.
- The Court cited a history of, and value of, local control in school finance.
- The existence of “some inequality” was recognized by the Court, but was not viewed as sufficient reason to strike down the entire system, acknowledging parallels in other locally funded programs such as police and fire protection.

### **Legal Standard Used in Decision:**

The standard being used was the Federal Equal Protection Clause.

### **Financial Concept Used in Decision:**

This case was the classic example of Horizontal Equity being applied because the question was focused on different resources being provided based on causes other than educational need. **Case Title:** *School Administrative District No. 1 v. Commissioner*(659 A.2d 854)

**Full Citation:**

Supreme Judicial Court of Maine  
SCHOOL ADMINISTRATIVE DISTRICT NO. 1  
et al.,  
v.  
COMMISSIONER, DEPARTMENT OF EDUCATION

**State:** Maine

**Court:** Supreme Judicial Court of Maine

**Decision Date:** June 7, 1995

**Plaintiff Claims:**

The plaintiffs in this appeal contended that the funding reductions implemented pursuant to the School Finance Act were a violation of their Equal Protection rights.

**Decision:**

Using the rational basis standard, the Court determined that the Legislature's reductions were rationally related to a legitimate government interest; thus, no constitutional violation had occurred.

**Reasoning:**

- This appeal was brought by plaintiffs who felt the lower court erred in determining that there was not a violation and in its decision to rule on behalf of the commissioner.
- The Court reviewed the School Finance Act's funding formula, specifically noting that it provided a foundation level of spending per pupil that is based on the average of local operating costs across the state. The local revenue is figured by taking the mill rate set by the Legislature and applying it to the assessed property valuations. Thus, the variable in the funding formula is the assessed property value of a district (and state subsidies vary as a result).
- During the years 1991 through 1994, the State made cuts to the state subsidies in a percentage increment that matched the cuts made in total state spending. Plaintiffs contended that equity gaps rose as the cuts were made; however, the plaintiffs did not make any adequacy claims at the time.
- The plaintiffs contended that education is a fundamental right; and thus, strict scrutiny should apply. Both the lower court and the Supreme Judicial Court determined that the correct standard was one of rational basis because there is no provision in the Maine Constitution guaranteeing a certain level of state funding to education and because there was no suspect class being affected.
- Using the rational basis standard, the Court determined that the Legislature's reductions were rationally related to a legitimate government interest; thus, no constitutional violation had occurred.

**Legal Standard Used in Decision:**

This decision was made based on State Equal Protection standards.

**Financial Concept Used in Decision:**

Because this decision was based on the equity impact as determined by the general funding system with no consideration of outcomes, this case is one of Horizontal Equity.

**Case Title:** *Seattle School District No. 1 v. Washington* (90 Wash. 2d 476)

**Full Citation:**

Supreme Court of Washington, En Banc.  
SEATTLE SCHOOL DISTRICT NO.1 OF KING COUNTY, Washington,  
a Municipal Corporation, et al.,  
Respondents-Cross-Appellants  
v.  
The STATE of Washington et al., Appellants

**State:** Washington

**Court:** Supreme Court of Washington, En Banc.

**Decision Date:** September 28, 1978

**Plaintiff Claims:**

- The original primary plaintiff contention was that the State had not met its obligation to “make ample provision” for education by creating a funding system dependent on excess levy requests.

**Decision:**

- The Court determined that “making ample provision” could not be met by authorizing special excess levy requests because it is neither dependable nor regular.

**Reasoning:**

- The State legislature set up a funding system in which an “adequate” level of funding was established, but any shortfall from the state in funding should be “made up” by the local district via an election for an increased levy. If a first election fails, a second election can be held; but if it were to fail, the district would be required to manage with only the state portion of funding.
- The plaintiff district had put forth a levy twice to failure, incurring a great deal of cost and resulting in sub-adequate funding for operations of the schools. The contention was that, as a result, the State had failed to provide for its “paramount duty” to make “ample provision for the education of its resident children” and “to provide for a general and uniform system of public schools.”
- The lower court issued a declaratory judgment, declaring that the District’s children have a constitutional right to adequately-funded educational programs of instruction. The judgment also declares that the state is required to make available funding, exclusive of local levies, for the basic education level. The Legislature was given until July 1, 1979, to comply.
- The trial court denied the plaintiff’s claim for \$17,000,000 in damages from lost funding from the 1975-76 fiscal year.
- The State contended that the lower court had improperly used declaratory judgment because, from their perspective, the Districts are a branch of the State. The Court determined that the declaratory judgment was appropriately used by the lower court.

- The State contended that the issue was legislative and not justiciable; the Court disagreed, stating that “the ultimate power to interpret, construe and enforce the constitution of this State belongs to the judiciary.”
- The State contended that the Education Clause of the State Constitution (Article 9, Section 1) was a “preamble” because of where it was grammatically placed and, therefore, not binding. The Court disagreed, ruling the State had a constitutional obligation to meet the standards set forth in Article 9, Section 1.
- In reviewing the language of Article 9, Section, the Court took special note of the word “paramount,” indicating that it creates a right for all children to be amply provided with an education. Because the Court determined education was right the State was obligated to provide unless the holder of the right prevents the State from providing it; the Court was clear that the children of the state of Washington had not created such a situation.
- The Court clearly stated that they would not make effort to define “ample” “provision” or “education” as represented in Article 9, Section 1. Instead, they provided legislative latitude within reason to meet the general meaning of the terms.
- The Court determined that Article 9, Section 1 required fully sufficient funds from legislation for the general and uniform system of public schools.
- The Court found that compliance with Article 9, Section 1 can only be achieved if sufficient funds are derived, through dependable and regular tax sources, to permit school districts to provide basic education through a basic program.
- The Court determined that the lower court had ruled correctly in denying legal costs to the plaintiff districts.

**Legal Standard Used in Decision:** This case was tied to the State Education Clause, namely Article 9, Section 1 of the Washington State Constitution.

**Financial Concept Used in Decision:** While the focus did address the phrase “ample provision” which would lend itself to an adequacy claim, the Court purposely avoided focusing on what standard would meet “ample provision.” Instead the focus was on what funding mechanism would need to exist to make ample provisions feasible. Thus, this case is best categorized as a Horizontal Equity decision.

**Case Title:** *Serrano v. Priest* (487 P.2d 1241) (Serrano I)

**Full Citation:**

JOHN SERRANO, JR., et al., Plaintiffs and Appellants,  
v.  
IVY BAKER PRIEST, as State Treasurer, etc., et al., Defendants and Respondents.  
Supreme Court of California

**State:** California

**Court:** Supreme Court of California

**Decision Date:** August 30, 1971

**Plaintiff Claims:**

- Plaintiffs claimed that the public school finance system was discriminatory and violated the Constitution because it was primarily based on wealth generated from local property taxes.
- There were three primary sub-points in the plaintiffs' claims:
  - Districts with smaller tax bases are not able to spend as much money per child for education as districts with larger assessed valuations.
  - Plaintiff parents contend that, as a result of the school financing scheme, they are required to pay a higher tax rate than taxpayers in other districts in order to obtain the same or lesser educational opportunities as students in wealthier districts.
  - Plaintiffs contend that the financing scheme is unconstitutional under the Fourteenth Amendment of the United States Constitution and under the California Constitution.

**Decision:**

The Court found that education is a fundamental interest and remanded the case back to the trial court.

**Reasoning:**

- The Court noted that wide disparities exist as a result of vast variations in assessed property values. An example was provided in which Baldwin Park spent \$577.49 per pupil, but Beverly Hills spent \$1231.72. Those figures correspond with a huge variation in assessed property value per child (\$3706 in Baldwin Park to \$50,885 in Beverly Hills).
- Under the foundation program, the State makes up the difference between what is generated and what could be raised by levying a tax of \$1 per \$1000. For Baldwin Park, the amount would be \$47.91 per child, but in Beverly Hills the amount would be \$870 per child.

Regarding Article IX, Section 5:

- The Article reads, "The Legislature shall provide for a system of common schools..."
- Plaintiffs contend there is an implication of fiscal equality; the Court disagreed.
  - The Court noted that Section 5 holds the directive for the system, but Section 6 focuses on the funding of the system; therefore, funding inferences should not be read into Section 5.

### Regarding Federal Equal Protection:

- The Court addressed wealth as a suspect classification.
  - The Court determined that the Supreme Court decisions that invalidated wealth classifications were not based on purposeful discrimination, but instead on unintentional classifications.
  - The Court determined that in the case at hand the governmental action (namely the school funding scheme paired with governmental action of drawing school district boundary lines) is the cause of the wealth classifications.
- Education as a Fundamental Interest
  - The Court noted that “education is a major determinant of an individual’s chances for economic and social success in our competitive society” and that “education is a unique influence on a child’s development as a citizen and his participation in political and community life.”
  - The Court cited *Brown v. Board of Education* (347 U.S. 483) with regard to Supreme Court references.
  - The Court ruled that education is a fundamental interest.
- Application of Strict Scrutiny
  - The question is if the structure of the finance system is necessary to achieve a compelling state interest.
  - The State contended that the compelling interest was “to strengthen and encourage local responsibility for control of public education.”
    - The Court noted that the only districts that would be in a position to control how much to freely spend on education are those with larger property valuations.
    - The Court also noted that districts can maintain fiscal control of districts once the initial distribution of funds has occurred.
  - The State asserted that if an equal protection mandate were provided regarding wealth and education, the same rule would need to be applied to all tax-supported services.
    - The Court indicated that education holds uniqueness in comparison to other governmental activities and should be responsive to the Equal Protection Clause.

### **Legal Standard Used in Decision:**

Both the State Education Clause and the State and Federal Equal Protection Clauses were utilized in this case.

### **Financial Concept Used in Decision:**

This case was an example of Horizontal Equity because it identified assessed property wealth as a primary determinate of access to per pupil funding.



**Case Title:** *Serrano v. Priest* (557 P.2d 929)--Serrano II

**Full Citation:**

Supreme Court of California  
JOHN SERRANO, JR., et al., Plaintiffs and Respondents  
v.  
IVY BAKER PRIEST, as State Treasurer, etc., et al/. Defendants and Appellants; CALIFORNIA  
FEDERATION OF TEACHERS, AFL-CIO, Intervenors and Respondent; BEVERLY HILLS  
UNIFIED SCHOOL DISTRICT et al., Intervenors and Appellants

**State:** California

**Court:** Supreme Court of California

**Decision Date:** December 30, 1976

**Plaintiff Claims:**

This case was back to the Supreme Court after having been heard on remand by the trial court after *Serrano I* (487 P.2d 1241).

**Decision:**

The Court ruled that the funding system of California's public schools violated the Equal Protection Clause of the State Constitution.

**Reasoning:**

- The State Legislature had enacted new laws during the remanded trial (Senate Bill 90 and Assembly Bill 1267).
  - The new legislation left school funding based on a "foundation approach" but eliminated the supplemental aid component of the formula.
  - The new legislation provided a substantial increase in the foundation level and created revenue limits for school districts (with a voter override possible).
  - The Court noted that there had not been a change in the fact that equal tax rates generate differing amounts in different districts based on assessed valuations.
  - The Court noted that "it is clear that substantial disparities in expenditures per pupil resulting from differences in local taxable wealth will continue to exist under SB 90 and AB 1267."
- The Court noted that disparities in expenditures per pupil cause and perpetuate disparities in the quality and extend of educational opportunities.
- The trial court ruled that because of the *San Antonio v. Rodriguez* (411 US 1) decision, the California funding system was not in violation of the Federal Equal Protection provisions, but that it was in violation of the State Education Clause as well as the State Constitution's Equal Protection provision.
- The State made the contention that assessed valuation of a district does not act as a good indicator of income levels of families residing within the district.
  - The Court did not see it as its duty to create a system of tax equality based on the case at hand.

- Additionally, the Court responded by pointing out that districts with low wealth have needs that have been created by that low wealth which can never be “caught up” without a systematic adjustment.
- Defendants claim a rational basis level of scrutiny was now appropriate based on the *Rodriguez* decision, but the Court felt the trial court was within its realm to apply strict scrutiny based on state constitutional requirements.
  - The Court acknowledged that *Rodriguez* overruled the Serrano I decision regarding the Federal Equal Protection Clause, but that the State Equal Protection decisions were still appropriate.
- Defendants asked the high court to look not only at the funding mechanisms, but also to look to outcomes as it evaluates equality of educational opportunities.
  - The Court referred to its Serrano I decision is and did not give much credence to the contention.

**Legal Standard Used in Decision:**

The final decision of part two of Serrano was the state Equal Protection Clause.

**Financial Concept Used in Decision:**

This was a determination of Horizontal Equity in that the question was an outside factor (property wealth) affecting school funding.

**Case Title:** *Skeen v. State* (505 N.W. 2d 299)

**Full Citation:**

Supreme Court of Minnesota  
Sheridan SKEEN, et al., Respondents  
v.  
STATE of Minnesota, et al., Appellants, Respondents  
and Virginia Independent School District No, 7, et al., Intervenors, Respondents, Appellants

**State:** Minnesota

**Court:** Supreme Court of Minnesota

**Decision Date:** August 20, 1993

**Plaintiff Claims:**

- The plaintiffs claimed that certain elements of the state education funding system were in violation of the Education Clause of the Minnesota Constitution (Art XIII., 1) which mandates that the legislature “establish a general and uniform system of public schools” and fund it in a manner that will “secure a thorough and efficient system of public schools throughout the state.”
- Additionally, the plaintiffs claimed that there was a state Equal Protection violation because education was a fundamental right outlined by the State Constitution and the right was not being equally provided.
- The lower Court agreed with the plaintiffs, and the issue was brought to the State Supreme Court on Appeal.

**Decision:**

- The Court found that the existing system of school financing did not violate the “general and uniform system of public schools” phrase in the Education Clause of the Minnesota Constitution, nor did it violate the Minnesota Equal Protection Clause; the lower court’s decision was reversed.

**Reasoning:**

- The Court determined that the claims being made regarding the Education Clause were not based in an adequacy argument but were, instead, based on the premise of relative harm. Essentially, the claim was that the system created disparities leading to a relative disadvantage for life for those in districts receive the lower funding.
- The Court recognized that the legislature had made significant equalization improvements in recent history but recognized that the plaintiffs’ claims regarding inequity focused on three elements of the formula specifically: the referendum levy, supplemental revenue, and the debt service levy, claiming that each was unconstitutional under the State Constitution.
  - Regarding the referendum levy:

- The plaintiffs contended that the ability for local districts to fund above and beyond the state standard via level unjustly yielded higher funds for high-wealth districts based on the same level of level.
  - The lower court had agreed and found this element unconstitutional.
- Regarding supplemental revenue
  - The original intent was to provide supplemental per pupil funding for districts as the state transitioned to the 1987 legislation which affected the funding formula.
  - This revenue is gradually being phased out.
  - The lower court found it unconstitutional because it is more readily available to high-wealth districts.
- Regarding debt service levy
  - The lower court found this issue to be unconstitutional because the higher level of indebtedness correlates to the ability to pass referendum levies.

**Legal Standard Used in Decision:**

- The plaintiffs made both State Education Clause claims as well as State Equal Protection claims.

**Financial Concept Used in Decision:**

- The plaintiffs conceded a minimal adequacy level of schools. This case was primarily decided on a Horizontal Equity basis as the focus was on disparities between districts based on property wealth.

**Case Title:** *State v. Campbell County School District* (19 P.3d 518) --Campbell II

**Full Citation:**

Supreme Court of Wyoming  
STATE of Wyoming, et al., Appellants (Defendants)  
v.  
CAMPBELL COUNTY SCHOOL DISTRICT, et al.,  
Appellees (Plaintiffs)  
Campbell County School District, State of Wyoming, et al., Appellants (Plaintiffs/Intervening  
Plaintiffs),  
v.  
State of Wyoming, et al., Appellees (Defendants)  
Big Horn County School District No. One, State of Wyoming, et al., Appellants (Intervening  
Defendants)  
v.  
Campbell County School District, State of Wyoming, et al., Appellees (Plaintiffs).  
State of Wyoming, et al. Appellants (Defendants)  
v.  
Campbell Country School District, State of Wyoming, et al., Appellees (Plaintiffs)

**State:** Wyoming

**Court:** Supreme Court of Wyoming

**Decision Date:** February 23, 2001

**Plaintiff Claims:**

This case was brought by groups contending that the legislature had yet to create a constitutionally-sound funding system for the public schools based on previous court decisions (including *Campbell I*).

**Decision:**

- The Court ruled that while some progress had been made, the legislature had not yet met the constitutional burden outlined in the State Education Clause.

**Reasoning:**

- The Court made one ruling on a variety of cases because they considered the legal analysis and conclusions to be the same.
- The Court made the following determinations regarding necessary requirements of the Wyoming state funding system for public schools:
  - The cost-based model approach is capable of supporting a constitutional school finance system.
  - The existing funding legislation must be amended by July 1, 2002, in the following manner:
    - Adjustment for inflation must occur each biennium using the Wyoming cost-of-living index.

- Every five years the legislature must conduct a review of the inflation adjustments to ensure they have met needs adequately.
- Administrative and classified salaries must be adjusted to account for differences in experience, responsibility and seniority.
- A maintenance and operation cost formula must be developed.
- Once an adequate formula is established, it must be fully funded.
- Small school adjustments must accurately reflect expenses not incurred at larger schools.
- Statewide average costs must be adjusted using the cost-of-living scale.
- The legislature would provide a one-time supplement to fully fund each school district's 1998-99 kindergarten component costs to adjust for an error.
- Capital Construction—the legislature must fund the facilities deemed necessary by the State to deliver an adequate education.
- All facilities must be safe and efficient, including a score of ninety or higher for building condition and eighty or higher for technological readiness.

**Legal Standard Used in Decision:**

The State Education Clause was the basis for this decision.

**Financial Concept Used in Decision:**

This case is an example of Adequacy because it addresses the overall funding system/formula against what is “appropriate for the times” regarding a general educational outcome standard.

**Case Title:** *Tennessee Small School Systems, Inc. v. McWhertner*

**Full Citation:**

Supreme Court of Tennessee, at Nashville  
TENNESSEE SMALL SCHOOL SYSTEMS, et al.,  
Plaintiffs-Appellants  
v.  
Ned Ray McWHERTER, et al. Defendants-Appellees,  
Charles O. Frazier, Director of Metropolitan Nashville, Davidson County Public Schools, et al.,  
Defendants-Intervenors-Appellees

**State:** Tennessee

**Court:** Supreme Court of Tennessee, at Nashville

**Decision Date:** March 22, 1993

**Plaintiff Claims:**

- Plaintiffs claimed that the existing school funding system was a violation of Article XI, Section 12 of the Tennessee Constitution which mandates that the General Assembly maintain and support a system of free public schools.
- Additionally, plaintiffs claim that the funding system violates the Equal Protection Provisions of the State Constitution.

**Decision:**

The Supreme Court remanded the case to trial court with the following understandings of Court opinion:

- The General Assembly is constitutionally bound to maintain and support a system of free public schools that affords substantially equal education.
- The General Assembly can create a system that involves levels of delegation to school districts or counties, but ultimately it is the General Assembly that is constitutionally bound to this obligation.
- The State's existing school funding system had created "constitutionally impermissible disparities in the educational opportunities afforded under the state's public school system."
- There is a relationship between school funding levels and quality of education, but there are other factors relating to quality of education as well.

**Reasoning:**

- A review of the Tennessee Foundation Program (TFP) led the Court to conclude that various factors mean that ultimately the State provides very little equalization of funding.
- Findings of fact led to a determination that the funding scheme had produced large funding disparities between districts.
- The Court also determined, based on offerings and facilities in various districts, that "evidence indicates a direct correlation between dollars expended and the quality of education a student receives."

- Various educational agencies concurred that the TFP does not equalize funding in a way that can meet the lower-wealth districts' needs; however, the TFP was reduced the following year.
- In response to defendant and intervenors' claims that the issue is not justiciable, the Court cited numerous cases creating precedent of justiciability of the issue.
- Regarding the Education Clause Claims:
  - The Court reviewed various decisions from other states, and acknowledged that decisions on such clauses are highly dependent on the wording of each clause which varies from state-to-state.
  - The Court determined that there was an "inherent value" of education.
  - The Court determined that "the word *education* has a definite meaning and needs to modifiers in order to describe the precise duty upon the legislature.
  - The Court determined that because the plaintiffs had valid Equal Protection claims, it was not necessary to determine at the time the precise mandated level of education under the Education Clause.
- Regarding the State Equal Protection Claims:
  - The lower court determined that the plaintiffs' claims met none of the three levels of standard, but the Supreme Court re-reviewed the case specifically under the rational basis standard.
  - The Court found no rational basis for the funding system.

#### **Legal Standard Used in Decision:**

The Court addresses the Education Clause claims affirmatively for the plaintiffs, but the ultimate decision for the plaintiffs was made based on the State Equal Protection violation.

#### **Financial Concept Used in Decision:**

While "quality" of education was repeatedly cited in the decision, there was never any reference to outcomes other than the "inherent value" of education. Therefore, the decision is best categorized as one of Horizontal Equity as the question addressed was if the funding formula created different resources based on something other than educational need.



**Case Title:** *Unified School District No. 229 v. State of Kansas* (885 P.2d 1170)

**Full Citation:**

Supreme Court of Kansas  
UNIFIED SCHOOL DISTRICT NO. 229, et al.,  
Appellants  
v.  
The STATE of Kansas, et al. Appellees  
UNIFIED SCHOOL DISTRICT NO.217, et al.,  
Appellants  
v.  
The STATE of Kansas, et al. Appellees  
UNIFIED SCHOOL DISTRICT NO.244, et al.,  
Appellants.  
v.  
The STATE of Kansas, et al., Appellees  
UNIFIED SCHOOL DISTRICT NO. 373, et al.,

**State:** Kansas

**Court:** Supreme Court of Kansas

**Decision Date:** December 2, 1994

**Plaintiff Claims:**

The original plaintiffs were contending that the School District Finance and Quality Performance Act L.1991, ch 280 was unconstitutional on a number of grounds.

**Decision:**

The Court ruled that the Act did not violate the State Education Clause in the State Constitution nor did it violate the State Equal Protection Clause.

**Reasoning:**

Regarding Infringement of Local School Board's Authority:

- The plaintiffs argue that the Act violated Article 6, Section 5 of the State Constitution which calls for local control of school boards because of the fiscal requirements and limits it places on districts. The assertion was that fiscal control was an integral part of local control; the Court disagreed with that assertion because Section 67 of the same Article mandates that the legislature be in charge of funding the public schools.

Regarding the Acts "Suitable Provision" for Finance under Article 6, Section 6:

- Article 6, Section 6 reads, "The legislature shall make suitable provision for finance of the educational interests of the state."
- Wealthy school districts claimed that the Act's leveling process meant cuts and reductions and, as a result, there was "cutting of mountain tops to fill valleys" while leaving all at a level that was not "suitable."

- The Court noted that *suitable* and *optimal* are not synonymous.
- The Court reviewed multiple cases from other states, but ultimately determined that the standard most comparable to the Kansas constitutional requirements were those cases focused on adequacy.
- The Court conducted a close examination of the definition of *suitable*.
  - The Court took specific note of the definition created in Kentucky under *Rose v. Council for Better Education* (790 S.W.2d) as well as definitions issued in *Abbott v. Burke* (119 N.J. 287) and *Alabama Coalition for Equity, Inc. v. Hunt* (Ala.Cir 1993).
  - The Court determined that the definitions in *Hunt*, *Rose* and *Abbott* were similar to the ten goals created by the legislature in efforts to define outcome goals for Kansas schools.
  - The Court determined that through the quality performance accreditation (QPA) process addressing the ten outcomes, the Act has a system for accountability for a suitable education.

#### Regarding Equal Protection:

- The wealthier plaintiff districts contended the Act violated the Equal Protection Act of the State Constitution.
- Citing *San Antonio v. Rodriguez* (411 U.S. 1), the Court determined that rational basis was the appropriate level of scrutiny for this review.
- The Court found a rational basis for each component of the Act, except the low enrollment weighting factor. Plaintiffs claim the line was drawn for political reasons at 1899 students, but the Court found a rational basis for the classifications.

#### Regarding Multiple Subjects:

- Plaintiffs contend that too many dissimilar subjects were tied together in the Act in violation of Article II, Section 16. The Court disagreed, finding that all the issues were tied together in an appropriate manner and did not violate Article II, Section 16.

#### Regarding Excessive Tax as a Taking:

- One group of plaintiffs made the contention that the Act violates the Fifth and Fourteenth Amendments to the United States Constitution, as well as Articles 1 and 2 of the Kansas Bill of Rights because they contend the recapture and redistribution of funds consists of “taking” taxes.
- The Court indicated that the issue at hand is if the recapture districts receive a benefit for taxes that ultimately educate students in another school district or whether the mill levy imposed in those districts imposes such a disproportionate inequality between the burden imposed and the benefit received that it constitutes “taking.”
- The Court determined that each Kansas taxpayer benefits from the education of all students in the State of Kansas.
- Thus, the Court ruled that the recapture component of the Act is not to be considered “taking” constitutionally.

Regarding Uniformity:

- One group of plaintiffs contended that the Act violated Article 2, Section 17 of the Kansas Constitution which mandates “uniform operation” throughout the state.
- The Court determined that as long as funding was distributed using a uniform formula, the standard of uniformity had been met.

**Legal Standard Used in Decision:**

Plaintiffs made claims using the State Education Clause, the State Equal Protection Clause and State Taxation Articles.

**Financial Concept Used in Decision:**

The plaintiffs claim regarding *suitable* was one of Adequacy because it claimed that with the recapture, no district could meet the standard of adequacy.

**Case Title:** *Washakie School District v. Herschler* (606 P.2d 310)

**Full Citation:**

Supreme Court of Wyoming

Washakie County School District Number One, Donna Moberly, Mary Jane Schmeltzer, Randall Rideout, Harold McDonald, Harry Ujifusa, Robert Moody and James Argeris, being all of the members of the Board of Trustees of Wasakie County School District Number One; Mary Jane Schmeltzer as next friend for Christopher Schmeltzer, Joe Schmeltzer, and Frances Schmeltzer, minors; Randall Rideout as next friend for Jason Rideout, Anthony Rideout and Michael Rideout, minors; Harold McDonald as next friend for Keven McDonald, Keith McDonald, David McDonald, Kenneth McDonald, and Brian McDonald, minors; Harry Ujifusa as next friend for Kelly Ujifusa and Gayle Ujifusa, minors; Robert Moody as next friend for Todd Moody, Sherri Moody, Cindy Moody, John Moody, Al Moody, and Scott Moody, minors; and James Argeris as next friend for Jayme Argeris, Tawn Argeris and Brett Argeris, minors; Unita Couty School District Number Six; G. Grant Redden, Clint Walker, F. Danny Eyre, Donald R. Carroll and Curtis Morgan being all members of the Board of Trustees of Unita County School District Number Six, Fremont County School District Number 25; Dennis Tippetts, L.J. Geraud, Patricia B. Ferris, Alice Kucera, Stanley Smalley, and Thomas Youtz, being all the members of the Board of Trustees of Fremont County School District Number Twenty-Five; and Albert B. Schultz

v.

Ed Herschler, Governor, State of Wyoming; Lynn Sions, State Superintendent of Public Instruction, Shirley Wittler, Wyoming State Treasurer; John Patton, Keith West, Dr. Denis Lyman, Barbar Rogers, Keith Becker, Redell Hooper, Karen Hand, Dr. Donald Blakeless, Glenn Engleking, being all the members of the Wyoming State Board of Education; Park County School District Number Sixteen, Campbell County School District Number One, Converse County School District Number One, Hot Springs County School District Number One, Carbon County School District Number Two, Sublette County School District Number Nine, Sweetwater County School District Number One, and Lincoln County School District Number One

**State:** Wyoming

**Court:** Supreme Court of Wyoming

**Decision Date:** January 15, 1980

**Plaintiff Claims:**

The lower Court dismissed the case, but did not provide rational for the dismissal. The appellants claim the case was dismissed for the following reasons. The Court responded to each concern:

- Appellants' complaint does not state a claim on which relief can be granted.
  - The Court indicated that the Wyoming Uniform Declaratory Judgments Act allows for cases to move forward even if relief cannot be claimed or declared.
- The appellants' complaint lacks specificity, i.e. it does not specifically identify the statute or statutes which they allege to be in the convention of the constitution, but rather merely assert that the "system of financing public education" is in violation of the Constitution.

- Because it was clear that all parties involved knew and understood the various components of the funding “system,” the Court determined the level of specificity needed had been met.
- The appellants each lack standing to bring a complaint.
  - The Court indicated that standing should not be viewed narrowly.
  - The Court determined that school board members and parents were involved enough to have standing.
- The appellants’ action is not a justiciable controversy.
  - The Court ruled that determining constitutionality of any issue remains in the jurisdiction of the Courts.
- The appellants’ action is defective because they failed to list every taxpayer as a party.
  - The Court disagreed with this reasoning, indicating that there was no validity to such an assertion.
- The appellants’ action should be dismissed for failure to request a proper remedy.
  - The Court determined that the appellants’ request for a declaration of unconstitutionality was sufficient.

### **Decision:**

The Court determined that the existing funding system for public schooling in Wyoming was unconstitutional in that it fails to offer equal protection as guaranteed by the State Constitution. They specifically indicate that they only were creating a constitutional standard in that “whatever system is adopted by the legislature, it must not create a level of spending which is a function of wealth other than the wealth of the state as a whole.”

### **Reasoning:**

#### Regarding the Constitutionality of the Existing Funding System:

- The Court noted a large discrepancy in available funds per pupil across districts, noting that for one hundred students in Washakie District No. 1, there is \$161,000; but in Campbell School District, the same number of students has access to \$329,900.
- The Court noted that “the quality of a child’s education in Wyoming, measured in terms of dollars available for this purpose, is dependent upon the property tax resources of his school district. “ Citing *Serrano v. Priest* (5 Cal.3d 584), the Court noted that the right to an education cannot constitutionally be conditioned on wealth in that such a measure does not provide equal protection. The connection to *Serrano* was made strong when the Court compared the Wyoming language and California language in their Equal Protection Clauses---they were virtually identical.
- The Court determined that so much emphasis was on education in the Wyoming Constitution that education was clearly a fundamental right, thus requiring a strict scrutiny review.
  - The State contended that the “rational basis” was that the funding system was but a small part of the quality of education students receive.
  - The Court agreed that there are other components to a quality education; however, the Court did not believe the wealthy districts were wasting funds while poor districts were provided with what they need. They saw the discrepancy as an indicator of poorer districts not getting what they need.

**Legal Standard Used in Decision:**

The decision was based on the State Equal Protection Clause.

**Financial Concept Used in Decision:**

This decision is an example of Horizontal Equity because the question at hand is if factors other than educational need cause an imbalance in funding. In this case, the focus of that imbalance was property wealth.

**Case Title:** *West Orange-Cove Consolidated Independent School District v. Alanis* (78 S.S. 3d 529)

Note: Once Alanis resigned as Commissioner of Education, Nelson was substituted as appellee/defendant

**Full Citation:**

Court of Appeals of Texas, Austin  
WEST ORANGE-COVE CONSOLIDATED INDEPENDENT SCHOOL DISTRICT; Coppell  
Independent School District; La Porte Independent School District; and Port Neches-Groves  
Independent School District, Appellants  
v.  
Felipe ALANIS, Texas Commissioner of Education; The Texas Education Agency; Carol  
Keeton Rylander, Texas Comptroller of Public Accounts; and the Texas State Board of  
Education; Alvarado I.S.D.; Anthony I.S.D.; Bangs I.S.D.; et al; Appellees

**State:** Texas

**Court:** Court of Appeals of Texas, Austin.

**Decision Date:** April 11, 2002

**Plaintiff Claims:**

- The plaintiffs in *West Orange-Cove* are asserting that because of the rising costs of education the \$1.50 cap on local levying was now both a “floor” and a “ceiling” which then constitutes an unconstitutional statewide ad valorem tax, asking the Court to declare *Edgewood IV* unconstitutional based on the increased cost of education.

**Decision:**

- The Court found that the District Court had made the correct decision in dismissing the case based on the special exception that they had failed to state a cognizable cause of action.
- The Court found that the District Court had made the correct decision in determining the issue to be unripe.

**Reasoning:**

- One of the issues the Court had considered in previous litigation, *Carrollton-Farmers Branch Independent School District v. Edgewood Independent School District* (826 S.W. 2d 489), was the ability for a state funding formula to determine levy rates without creating an unconstitutional state tax. The Court determined that as long as control and discretion remained with the local districts, a formula to enable a levy component to remain part of a state funding formula.
- School districts aligned with the State, specifically Alvarado Independent School District, claimed that West Orange-Cove did not have a viable cause of action because they had not asserted that “they were required to adopt a \$1.50 tax rate in order to provide the constitutionally-required general diffusion of knowledge to their students”; West Orange-Cove had only claimed that they had to tax at the cap to “educate their students.”

- The District Court dismissed the case, based on Alvarado’s claims. This case is the West Orange Cove appeal of this dismissal.
- Additionally, the State claimed that West Orange-Cove’s issues were not “ripe” because the claim was that the impact was only affecting four districts at the time of litigation. The District Court determined that 12.19 percent of districts were taxing at the maximum rate and because that number was below fifty percent, the issue was not a ripe claim.

**Legal Standard Used in Decision:**

- Although, the decisions at the District Court and the Court of Appeals were based in legal process and procedure, the original plaintiff claim was based in the State Education Clause.

**Financial Concept Used in Decision:**

- Although, the decisions at the District Court and the Court of Appeals were based in legal process and procedure, the original plaintiff claim was one of Horizontal Equity in that the plaintiffs claimed that the funding formula created inequitable educational situations based on local taxation ability.



## **Chapter Four—Data Analysis & Conclusions**

Once they were briefed, the cases were categorized by date, state, legal standard used, financial concept used, and whether the decision was generally in favor of school finance reform or against such reform. Multiple frequency analyses were conducted of the various categories.

Before directly answering the five proposed research questions, it is necessary to frame the discussion by reviewing how traditional chronological categorizations work with the cases studied. This analysis involved identifying the appropriateness of the three waves categorizations based on actual counts of cases within each category. As previously noted, the history of school finance litigation has traditionally been categorized into three waves for the ease of generalizations. Table 2.0 is a shaded chart identifying how the date range of the three waves would be chronologically reflected in the cases identified for this study.

<b>Table 2.0 Categorization of Cases by Traditional Wave Pattern</b>					
<b>Case Title</b>	<b>State</b>	<b>Decision Date</b>	<b>Legal Standard Used in the Decision</b>	<b>Financial Concept Used in Decision</b>	<b>Decision in Favor of or Against Finance Reform</b>
Serrano v. Priest (487 P.2d 1241)-- Serrano I	California	1971	Combination-- State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause	Horizontal Equity	In Favor of Reform
Milliken v. Green	Michigan	1973	Combination-- Federal and State Equal Protection Clauses	Horizontal Equity	Against Finance Reform
San Antonio v. Rodriguez (411 US 1)	Texas	1973	Federal Equal Protection Clause	Horizontal Equity	Against Finance Reform
Robinson v Cahill I (62 N.J. 473)	New Jersey	1973	State Education Clause	Horizontal Equity	In Favor of Reform
Olsen v. State	Oregon	1976	Combination-- State Education Clause and State Equal Protection Clause	Horizontal Equity	Against Finance Reform
Buse v. Smith (74 Wis. 2d 550)	Wisconsin	1976	Combination-- State Equal Protection Clause and State Taxation Clause	Horizontal Equity	In Favor of Reform
Serrano v. Priest (557 P.2d 929)-- Serrano II	California	1976	State Equal Protection Clause	Horizontal Equity	In Favor of Reform
Horton v. Meskill (172 Conn. 615)-- Horton I	Connecticut	1977	State Equal Protection Clause	Horizontal Equity	In Favor of Reform
Seattle School District No 1 v. Washington (90 Wash. 2d 476)	Washington	1978	State Equal Protection Clause	Horizontal Equity	In Favor of Reform

Board of Education of Cincinnati v. Walter (58 Ohio St. 368)	Ohio	1979	Combination-- State Education Clause and State Equal Protection Clause	Combination-- Horizontal Equity & Pure Vertical Equity	Against Finance Reform
Pauley v. Kelly (255 S.E.2d 859)	West Virginia	1979	Combination-- State Education Clause and State Equal Protection Clause	Combination-- Horizontal Equity and Adequacy	In Favor of Reform
Washakie School District v. Herschler (606 P.2d 310)	Wyoming	1980	State Equal Protection Clause	Horizontal Equity	In Favor of Reform
McDaniel v. Thomas (248 Ga. 632)	Georgia	1981	Combination-- State Education Clause and State Equal Protection Clause	Combination-- Horizontal Equity and Adequacy	Against Finance Reform
Board of Education, Levittown Union Free School District v. Nyquist ( 57 N.Y. 2d 27)	New York	1982	Combination-- State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause	Combination-- Horizontal Equity and Adequacy	Against Finance Reform
Lujan v. Colorado State Board of Education (649 P.2d 1005)	Colorado	1982	Combination-- State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause	Horizontal Equity	Against Finance Reform
Dupree v. Alma (279 Ark. 340)	Arkansas	1983	State Equal Protection Clause	Horizontal Equity	In Favor of Reform
Abbott v. Burke I ( 100 N.J. 269)	New Jersey	1985	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Horton v. Meskill (195 Conn. 24)-- Horton II	Connecticut	1985	State Equal Protection Clause	Horizontal Equity	In Favor of Reform
Fair School Finance Council of Oklahoma, Inc. v. State (746 P.2d 1135)	Oklahoma	1987	Combination-- State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause	Horizontal Equity	Against Finance Reform
Kukor v. Grover (148 Wis.2d 469)	Wisconsin	1989	Combination-- State Education Clause and State Equal Protection Clause	Pure Vertical Equity	Against Finance Reform

Rose v. Council for Better Education, Inc. (790 S.W.2d 186)	Kentucky	1989	State Education Clause	Adequacy	In Favor of Reform
Edgewood Independent School District v. Kirby--Edgewood I (777 S.W. 2d 391)	Texas	1989	State Education Clause	Horizontal Equity	In Favor of Reform
Helena Elementary School District No. 1 v. Montana (769 p.2d 684)	Montana	1989	State Education Clause	Horizontal Equity	In Favor of Reform
Abbott v. Burke II	New Jersey	1990	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Edgewood Independent School District v. Kirby--Edgewood II (804 S.W. 2d 491)	Texas	1991	State Education Clause	Horizontal Equity	In Favor of Reform
Claremont School District v. Governor (138 N.H. 183)—Claremont I	New Hampshire	1992	State Education Clause	Adequacy	In Favor of Reform
Edgewood Independent School District v. Kirby--Edgewood III (826 S.W. 2d 489)	Texas	1992	Taxation Clause of State Constitution	Horizontal Equity	In Favor of Reform
McDuffy v. Secretary of Executive Office of Education (615 N.E.2d 516)	Massachusetts	1993	State Education Clause	Adequacy	In Favor of Reform
Skeen v. State	Minnesota	1993	State Education Clause	Horizontal Equity	Against Finance Reform
Tennessee Small School Systems, Inc. v. McWhertner	Tennessee	1993	State Equal Protection Clause	Horizontal Equity	In Favor of Reform
Unified School District No. 229 v. State of Kansas (885 P.2d 1170)	Kansas	1994	Combination-- State Equal Protection, State Education Clause, and State Taxation Clause	Adequacy	Against Finance Reform

Roosevelt Elementary School District No. 66 v. Bishop (179 Ariz. 233)	Arizona	1994	State Education Clause	Horizontal Equity	In Favor of Reform
Abbott v. Burke III	New Jersey	1994	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Campbell v. State I (907 P.2d 1238)	Wyoming	1995	Combination-- State Education Clause and State Equal Protection Clause	Vertical Equity as Adequacy	In Favor of Reform
School Administrative District No. 1 v. Commissioner (659 A.2d 854)	Maine	1995	State Equal Protection Clause	Horizontal Equity	Against Finance Reform
Edgewood Independent School District v. Kirby--Edgewood IV (917 S.W. 2d 717)	Texas	1995	Taxation Clause of State Constitution	Horizontal Equity	Against Finance Reform
Committee for Educational Rights v. Edgar (174 Ill.2d 1)	Illinois	1996	Combination-- State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause	Horizontal Equity	Against Finance Reform
Coalition for Adequacy and Fairness in School Funding, Inc. v. Chiles( 680 So.2d 400)	Florida	1996	State Education Clause	Vertical Equity as Adequacy	Against Finance Reform
Leandro v. State (346 N.C. 336)	North Carolina	1997	Combination-- State Education Clause and State Equal Protection Clause	Combination-- Adequacy, Vertical Equity as Adequacy, and Horizontal Equity	In Favor of Reform
Claremont School District v. Governor (142 N.H. 462)— Claremont II	New Hampshire	1997	Combination-- State Equal Protection Clause and State Taxation Clause	Combination-- Horizontal Equity and Adequacy	In Favor of Reform
DeRolph v. State (78 Ohio St.3d 193)	Ohio	1997	State Education Clause	Combination-- Horizontal Equity and Adequacy	In Favor of Reform
Hull v. Albrecht (190 Ariz. 520)	Arizona	1997	State Education Clause	Horizontal Equity	In Favor of Reform

Brigham v. State (166 Vt. 246)	Vermont	1997	State Education Clause	Pure Vertical Equity	In Favor of Reform
Abbott v. Burke IV	New Jersey	1997	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Durant v. State of Michigan (456 Mich. 175)	Michigan	1997	Taxation Clause of State Constitution	Compliance with Taxation Regulation	In Favor of Reform
Abbott v. Burke V	New Jersey	1998	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Lewis v. Spagnolo (710 N.E. 2d 798)	Illinois	1999	Combination-- Education Clause, Federal Due Process Clause, State Due Process Clause, State Common Law Standards.	Adequacy	Against Finance Reform
Abbeville v. State (335 S.C. 58)	South Carolina	1999	State Education Clause	Adequacy	In Favor of Reform
Opinion of the Justices (145 N.H. 474)	New Hampshire	2000	State Education Clause	Combination-- Horizontal Equity and Adequacy	In Favor of Reform
Abbott v. Burke VI	New Jersey	2000	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Abbott v. Burke VII	New Jersey	2000	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
State v. Campbell County School District (19 P.3d 518) --Campbell II	Wyoming	2001	State Education Clause	Adequacy	In Favor of Reform
CFE v. State (719 N.Y.S.2d 475)	New York	2001	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Lake View School District No. 25 of Phillips County v. Huckabee (351 Ark 31)	Arkansas	2002	Combination-- State Education Clause and State Equal Protection Clause	Combination-- Horizontal Equity & Pure Vertical Equity	In Favor of Reform

West Orange-Cove Consolidated Independent School District v. Alanis (78 S.S. 3d 529)	Texas	2002	State Education Clause	Horizontal Equity	Against Finance Reform
Abbott v. Burke IX	New Jersey	2002	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Abbott v. Burke VIII	New Jersey	2002	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Montoy v. State	Kansas	2003	Combination-- State Education Clause, State Equal Protection Clause, State Due Process Clause	Combination-- Horizontal Equity, Pure Vertical Equity and Adequacy.	In Favor of Reform
Abbott v. Burke XI	New Jersey	2003	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Abbott v. Burke X	New Jersey	2004	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Abbott v. Burke XII	New Jersey	2004	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Abbott v. Burke XIII	New Jersey	2004	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Columbia Falls Elementary School District No. 6 v. Montana (109P.3d 257)	Montana	2005	State Education Clause	Adequacy	In Favor of Reform
Abbott v. Burke XIV	New Jersey	2005	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Londonderry v. State (958 A. 2d 930)	New Hampshire	2006	State Education Clause	Adequacy	In Favor of Reform
Abbott v. Burke XV	New Jersey	2006	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform

Abbott v. Burke XVI	New Jersey	2006	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Oklahoma Education Association v. State (158 P.3d 1058)	Oklahoma	2007	State Education Clause	Adequacy	Against Finance Reform
Nebraska Coalition for Education Equity and Adequacy v. Heineman (731 N.W.2d 164)	Nebraska	2007	State Education Clause	Combination-- Adequacy and Justiceability	Against Finance Reform
Abbott v. Burke XVII	New Jersey	2007	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Abbott v. Burke XVIII	New Jersey	2008	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Abbott v. Burke XIX	New Jersey	2008	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Committee for Educational Equality v. State (878 S.W.2d 446)	Missouri	2009	Combination-- State Equal Protection, State Education Clause, and State Taxation Clause	Horizontal Equity	Against Finance Reform
Pendelton School District v. State (345 Or. 596)	Oregon	2009	State Education Clause	Adequacy	Against Finance Reform
Abbott v. Burke XX	New Jersey	2009	State Education Clause	Vertical Equity as Adequacy	In Favor of Reform
Connecticut Coalition for Justice in Education Funding v. Rell	Connecticut	2010	State Education Clause	Adequacy	In Favor of Reform

Traditionally Designated Wave 1	Traditionally Designated Wave 2	Traditionally Designated Wave 3
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Wave One has traditionally been identified as existing from 1971 through 1973 with cases being primarily based in the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. The time span for Wave One encompasses only four of the cases identified for this study. Regarding the implication that those cases are grounded in Federal Equal Protection claims, the data suggests that to be partially true with three of the four cases being decided at least in part based on the Fourteenth Amendment. However, such a generalization regarding those cases is a bit too broad to effectively represent the era of litigation as two of those cases, specifically *Serrano v. Priest* (487 P.2d 1241) and *Milliken v. Green* (390 Michigan 389), were a combination of legal standards. The fourth case within the Wave One time span *Robinson v Cahill I* (62 N.J. 473), utilizes the State Education Clause.

The traditional Wave Two of school finance litigation is represented by cases from 1973 through 1989 and suggests that most cases within that wave are based on the Equal Protection Clauses of the state constitutions based on the ruling of *San Antonio v. Rodriguez* (411 US 1), essentially eliminating federal equal protection as a possibility. A review of the categorizations of the cases identified for this research includes eighteen cases. Of those eighteen cases, only six of them were decided solely based on State Equal Protection, with nine of the cases being a combination of State Equal Protection and at least one other criterion, and four cases being based in a State Education Clause.

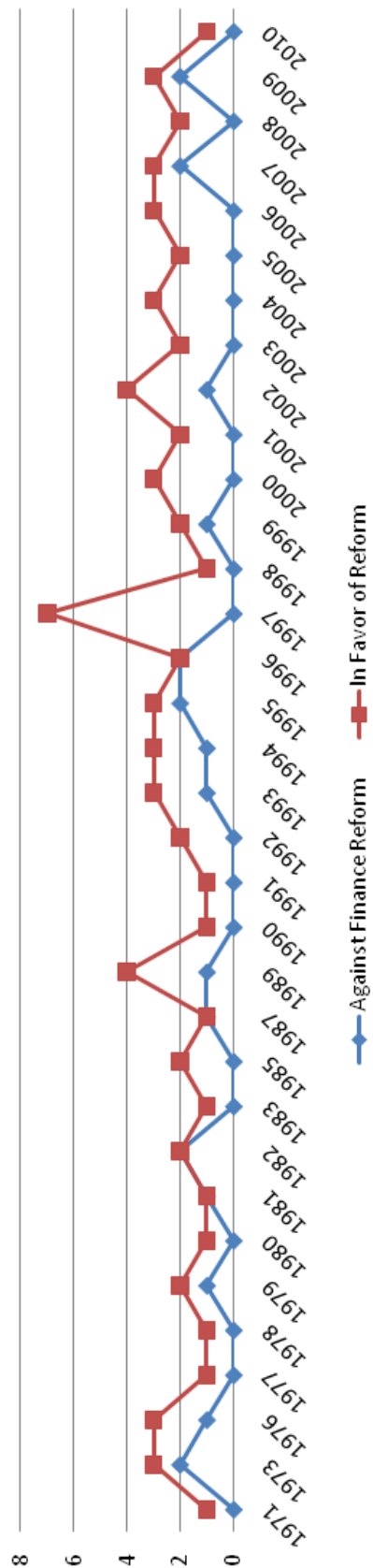
The final wave is traditionally considered to begin in 1989 with a shift in emphasis to the State Education Clauses as the basis for litigation. That shift is seen in part at the end of Wave Two when looking chronologically; of the four cases in wave two that are based in a State Education

Clauses, three of them were decided in 1989 and serve as the transition of the waves. Wave Three is inclusive of fifty-two cases within this study. Of the fifty-two cases, only six of them were not decided in some manner based on State Education Clauses suggesting that labeling wave three the wave of the State Education Clause is generally appropriate.

While having general categories to group cases in has been helpful to provide an overarching understanding of the general trends of school finance litigation, much can be learned by reviewing multiple components of the cases, beyond decision date and legal standard used, to determine more specific trends, as well as effectiveness ratings for various combinations of categories.

A relevant analysis is to follow the concept of looking at the litigation chronologically, but specifically looking to see what the historical trend was regarding decisions being pro-school finance reform or anti-school finance reform. Table 3.0 and Figure 1.0 illustrate the chronological frequency of each category.

### Figure 1.0 Historical Frequency of High Court Decisions for & Against School Finance Reform



### Table 3.0 Chronological Categorization of Decisions

Year and Orientation of Respondents		Grand Total												Against Finance Reform												In Favor of Reform											
		1971	1973	1976	1977	1978	1979	1980	1981	1982	1983	1985	1987	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010		
Grand Total	1	3	3	1	1	2	1	1	2	1	2	1	4	1	1	2	3	3	3	2	7	1	2	3	2	4	2	3	2	3	3	2	3	1	76		
	1	1	2	1	1	1	1	1		1	2		3	1	1	2	2	2	1		7	1	1	3	2	3	2	3	1	2		1	55				
Against Finance Reform		2	1			1			2			1	1				1	1	2	2			1			1					2		2	21			
Total																																					

Across the thirty-nine years of cases, overwhelmingly the decisions have been in favor of school reform with fifty-five decisions being categorized as pro-school reform and twenty-one of the cases being anti-school finance reform. Notably from 1997 through 2010, a surge of litigation occurred, with thirty-eight of the seventy-six cases being within this past thirteen years. Of those thirty-eight cases, 84.2 percent of them were decided in favor of school reform.

Noting the surge of successful plaintiff litigation over the past thirteen years leads to the next level of analysis, which focuses on what legal and financial categorizations led to the highest levels of plaintiff successes which will answer research questions number one and two. It is significant to look at each factor, financial concept and legal standard separately against success rates for school finance reform; it is also significant to conduct an analysis of the combinations and their yield.

**Research Question Number One: What is the history of education finance reform litigation at the high state courts and U.S. Supreme Court levels with regard to the choice of the finance concept being applied (horizontal equity, pure vertical equity, vertical equity as adequacy, or adequacy)?**

Answering research question number one involves a review of the finance concept utilized in each decision and the trends created. Of the various finance concepts, Horizontal Equity was used the most, in twenty-seven of the seventy-six cases, as a basis for decision. Vertical Equity as Adequacy came in a close second with twenty-three instances of that being the decision basis. The high frequency of Horizontal Equity and Vertical Equity as Adequacy is logical, based on the high frequency of use of the state education clauses as the legal standard. In fact, of the forty-four cases based solely on the state education clause, eight were based in Horizontal Equity

and twenty-two were based in Vertical Equity as Adequacy. The arguments attached to education clause claims are tied to adjectives like “thorough and efficient” and “suitable” found within those clauses. The traditional plaintiff claim in such cases is that the standard set by those adjectives is not being met. Thus, the logical financial concepts that emerge are claims that differences in resources not related to educational need do not meet the standard set by the adjectives (Horizontal Equity) or that various student groups (ie: impoverished, minority, students with special needs) are not able to meet the outcomes suggested by the adjectives under the existing funding system (Vertical Equity as Adequacy).

In reviewing the use which financial concept yielded the most plaintiff victories, it is necessary to review the data found in Table 4.0.

**Table 4.0 Count of Decision in Favor of or Against Finance Reform**

Financial Concepts	Against Finance Reform	In Favor of Reform	Grand Total
Adequacy	4	8	12
Combination--Horizontal Equity & Pure Vertical Equity	1	1	2
Combination--Horizontal Equity and Adequacy	2	4	6
Combination--Horizontal Equity, Pure Vertical Equity and Adequacy		1	1
Compliance with Taxation Regulation		1	1
Horizontal Equity	11	16	27
Pure Vertical Equity	1	1	2
Vertical Equity as Adequacy	1	22	23
Combination--Adequacy and Justiciability	1		1
Combination--Adequacy, Vertical Equity as Adequacy, and Horizontal Equity		1	1
<b>Grand Total</b>	<b>21</b>	<b>55</b>	<b>76</b>

Perhaps the riskiest financial standard for a plaintiff to use, based on this historical review, is that of Horizontal Equity. In the cases reviewed in this study, Horizontal Equity was utilized twenty-seven times, but in only 59.3 percent of the instances was the ruling in favor of school reform. By far, the most successful financial concept used by plaintiffs was that of Vertical Equity as Adequacy. Vertical Equity as Adequacy was used twenty-three times, and the courts decided in favor of school reform in twenty-two of the twenty-three instances, a 95.6 percent rate of success. However, a large percentage of those cases were one version or another of the *Abbott v. Burke* (100 N.J. 269) cases so some caution should be used in drawing large scale conclusions based on that number. Pure Adequacy leaned toward school reform as well, with eight of the twelve cases, 66.7percent, being decided in favor of school reform. Other financial concepts, and combinations thereof, yielded some sporadic data points but did not yield significant trends. In general, however, the review of these cases indicates that plaintiffs were more successful when they stayed within one “pure” financial concept and did not tried blending or combining them. Of the fifty-five decisions that leaned toward school reform, 85.5 percent of them were based on a “pure” financial concept and not a combination.

**Research Question Number Two: Which legal standard was used historically in education reform litigation for each case and how does that connect with finance concept being applied?**

A review of the data in Table 5.0 allows for the following analysis, specifically regarding which legal standards were used in the Courts’ decisions and what type of results they yielded.

Table 5.0 Count of Decision in Favor of or Against Finance Reform				
Legal Standard	Against Finance Reform	In Favor of Reform	Grand Total	
Combination--Education Clause, Federal Due Process Clause, State Due Process Clause, State Common Law Standards.	1		1	
Combination--Federal and State Equal Protection Clauses	1		1	
Combination--State Education Clause and State Equal Protection Clause	4	4	8	
Combination--State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause	4	1	5	
Combination--State Education Clause, State Equal Protection Clause, State Due Process Clause		1	1	
Combination--State Equal Protection Clause and State Taxation Clause		2	2	
Combination--State Equal Protection, State Education Clause, and State Taxation Clause	2		2	
Federal Equal Protection Clause	1		1	
State Education Clause	6	38	44	
State Equal Protection Clause	1	7	8	
Taxation Clause of State Constitution	1	2	3	
Grand Total	21	55	76	



It is most appropriate to look first at the four legal standards that were used in isolation for decisions and then extend the analysis to include decisions based on combinations of legal standards.

Beginning with the legal standard typically associated with the early stages of school finance reform, only one case used the Fourteenth Amendment of the U.S. Constitution, specifically the Equal Protection Clause. As a result of the *San Antonio v. Rodriguez* (411 US 1) decision against school finance reform in that case, no further litigation based solely on the federal equal protection clause was pursued. The U.S. Supreme Court essentially set the standard moving forward that federal equal protection was not an appropriate legal standard to apply in such cases, shifting the legal standard toward state equal protection and what is known as Wave Two.

Of the cases included in this study, eight were decided solely upon the state equal protection clause. Of those eight, seven were decided in favor of school finance reform and one was not. The one that was decided against finance reform was *School Administrative District No. 1 v. Commissioner* (659 A.2d 854) in Maine in 1995 and was the last chronological case to use only that as the legal standard. Well into what was considered Wave Three, the trend by 1995 had clearly shifted to successful utilization of the state education clauses as the legal standard. Forty-four of the seventy-six reviewed cases were decided solely on the state education clause, with thirty-eight of those forty-four being decided in favor of school finance reform. The first case decided completely based on a state's education clause was *Robinson v Cahill I* (62 N.J. 473) in New Jersey in 1973 followed by *Abbott v. Burke I* (100 N.J. 269) in 1985, also in New

Jersey. Both New Jersey cases focused on the modifiers “thorough and efficient” found within the education clause of the state constitution. The successes in New Jersey forged the way for what became the most successful, and most often used, legal standard for school finance litigation moving forward.

The fourth individual legal standard on which the included cases were decided is the taxation laws found in various state constitutions. Three cases were decided solely on state taxation law, with two being decided in favor of and one being decided against school finance reform.

As listed in Table 5.0, various combinations of legal standards have been used in decisions as well. Often plaintiffs try to include as many angles as possible, hoping that at least one will be successful. The combination strategy is successful only about forty percent of the time with eight of the twenty cases decided using a combination of legal standards being decided in favor of reform.

It is clear that as various cases were decided, the chronological trend morphed into the primary use of state education clause as the legal standard. It is fair to conclude that the *San Antonio v. Rodriguez* (411 US 1) case played a pivotal role in that shift, despite being decided sixteen years prior to the start of the State Education Clause trend. *San Antonio v. Rodriguez* (411 US 1) clearly ruled out the use of the Federal Equal Protection Clause. While *Serrano v. Priest* (557 P.2d 929) delineated the difference between using federal equal protection and state equal protection clauses, many future decisions regarding the use of the state equal protection clauses leaned heavily upon *San Antonio v. Rodriguez* (411 US 1) in ruling against plaintiffs seeking

finance reform. Thus, the shift to the state education clause became the more frequent legal standard.

**Research Question Number Three: Which party was successful in each legal decision?**

The question of plaintiff or defendant victory is best answered on a case-by-case basis by reviewing the case brief. However, it is worth noting that for the purpose of analysis, this categorization was better extended to be a determination of if the decision was in favor of school finance reform or against it. The evaluation regarding pro-school reform or anti-school reform status was made by determining if the decision would require legislature to revise the distribution of funds to provide an increase in funding for certain, or all, districts; or if the decisions resulted in a mandate for greater equity or adequacy in fund distribution. If any of those criteria was met, the case was categorized as being pro-school finance reform. This analysis extends beyond party victory and refocused the analysis on the potential effect toward further equity or adequacy impact of the decision. A comprehensive listing of the school reform status categorizations is within Table 2.0.

**Research Question Number Four: Is there historically a most successful combination of finance concept and legal standard for plaintiff success in education finance reform litigation?**

After reviewing the legal standard used and financial concept applied to each decision, it is relevant to review the combination of both factors against the success rate for school reform. A review of Table 6.0 serves this purpose.

Table 6.0 Count of Decision in Favor of or Against Finance Reform			
Legal and Financial Standards Combined	Against Finance Reform	In Favor of Reform	Grand Total
<b>Combination--Education Clause, Federal Due Process Clause, State Due Process Clause, State Common Law Standards.</b>	<b>1</b>		<b>1</b>
Adequacy	1		1
<b>Combination--Federal and State Equal Protection Clauses</b>	<b>1</b>		<b>1</b>
Horizontal Equity	1		1
<b>Combination--State Education Clause and State Equal Protection Clause</b>	<b>4</b>	<b>4</b>	<b>8</b>
Combination--Horizontal Equity & Pure Vertical Equity	1	1	2
Combination--Horizontal Equity and Adequacy	1	1	2
Horizontal Equity	1		1
Pure Vertical Equity	1		1
Vertical Equity as Adequacy		1	1
Combination--Adequacy, Vertical Equity as Adequacy, and Horizontal Equity		1	1
<b>Combination--State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause</b>	<b>4</b>	<b>1</b>	<b>5</b>
Combination--Horizontal Equity and Adequacy	1		1
Horizontal Equity	3	1	4
<b>Combination--State Education Clause, State Equal Protection Clause, State Due Process Clause</b>		<b>1</b>	<b>1</b>
Combination--Horizontal Equity, Pure Vertical Equity and Adequacy.		1	1
<b>Combination--State Equal Protection Clause and State Taxation Clause</b>		<b>2</b>	<b>2</b>
Combination--Horizontal Equity and Adequacy		1	1
Horizontal Equity		1	1
<b>Combination--State Equal Protection, State Education Clause, and State Taxation Clause</b>	<b>2</b>		<b>2</b>
Adequacy	1		1
Horizontal Equity	1		1
<b>Federal Equal Protection Clause</b>	<b>1</b>		<b>1</b>
Horizontal Equity	1		1
<b>State Education Clause</b>	<b>6</b>	<b>38</b>	<b>44</b>
Adequacy	2	8	10
Combination--Horizontal Equity and Adequacy		2	2
Horizontal Equity	2	6	8
Pure Vertical Equity		1	1
Vertical Equity as Adequacy	1	21	22
Combination--Adequacy and Justiceability	1		1
<b>State Equal Protection Clause</b>	<b>1</b>	<b>7</b>	<b>8</b>
Horizontal Equity	1	7	8
<b>Taxation Clause of State Constitution</b>	<b>1</b>	<b>2</b>	<b>3</b>
Compliance with Taxation Regulation		1	1
Horizontal Equity	1	1	2
<b>Grand Total</b>	<b>21</b>	<b>55</b>	<b>76</b>

By far, the most successful combination of legal standard and financial concept applied within the reviewed cases was the combination of the State Education Clause and Vertical Equity as Adequacy. That particular combination yielded decisions toward school finance reform in twenty-one cases. However, it is very necessary to note that of those twenty-one cases, nineteen of them were one form or another of the *Abbott v. Burke* (100 N.J. 269) cases out of New Jersey. Therefore, it is relevant to consider the next highest number. The next highest number is the State Education Clause and Pure Adequacy which yielded eight decisions in favor of school reform. It is significant to note, however, that one cannot assume that selecting these combinations moving forward increases likelihood of success without considering the historical placement of these decisions.

As courts make decisions over time, in this study over a period of thirty-nine years, legal trends shift and new precedents are created, and thus strategies must evolve as well. Therefore, a review of Table 7.0 is relevant to look at the highest combination that yielded success for those seeking school finance reform and where those decisions fall historically.



Once the nineteen Abbott cases are consolidated for purposes of frequency counting, it becomes most appropriate to look chronologically at the cases decided with the combination of State Education Clause and Pure Adequacy. Table 7.0 illustrates that this high frequency count combination also has a level of timely relevance in that all cases using that combination have been decided since 1992, with six of them being decided since 2001.

**Additional Question Answered: Do certain states tend to be more school finance reform friendly than others?**

Although not proposed as an original research question in this study, another angle of analysis is that of considering if certain states tend to be more school finance reform-friendly than others.

This analysis is best done by reviewing the data within Table 8.0.

**Table 8.0 State by State Case Litigation Count By Legal and Financial Combination**

State	Against Finance Reform	In Favor of Reform	Grand Total
<b>Arizona</b>		<b>2</b>	<b>2</b>
State Education Clause		2	2
<b>Arkansas</b>		<b>2</b>	<b>2</b>
Combination--State Education Clause and State Equal Protection Clause		1	1
State Equal Protection Clause		1	1
<b>California</b>		<b>2</b>	<b>2</b>
Combination--State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause		1	1
State Equal Protection Clause		1	1
<b>Colorado</b>	<b>1</b>		<b>1</b>
Combination--State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause	1		1
<b>Connecticut</b>		<b>3</b>	<b>3</b>
State Education Clause		1	1
State Equal Protection Clause		2	2
<b>Florida</b>	<b>1</b>		<b>1</b>
State Education Clause	1		1
<b>Georgia</b>	<b>1</b>		<b>1</b>
Combination--State Education Clause and State Equal Protection Clause	1		1
<b>Illinois</b>	<b>2</b>		<b>2</b>
Combination--Education Clause, Federal Due Process Clause, State Due Process Clause, State Common Law Standards	1		1
Combination--State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause	1		1
<b>Kansas</b>	<b>1</b>	<b>1</b>	<b>2</b>
Combination--State Education Clause, State Equal Protection Clause, State Due Process Clause		1	1
Combination--State Equal Protection, State Education Clause, and State Taxation Clause	1		1
<b>Kentucky</b>		<b>1</b>	<b>1</b>
State Education Clause		1	1
<b>Maine</b>	<b>1</b>		<b>1</b>
State Equal Protection Clause	1		1
<b>Massachusetts</b>		<b>1</b>	<b>1</b>
State Education Clause		1	1
<b>Michigan</b>	<b>1</b>	<b>1</b>	<b>2</b>



Combination--Federal and State Equal Protection Clauses	1		1
Taxation Clause of State Constitution		1	1
<b>Minnesota</b>	<b>1</b>		<b>1</b>
State Education Clause	1		1
<b>Missouri</b>	<b>1</b>		<b>1</b>
Combination--State Equal Protection, State Education Clause, and State Taxation Clause	1		1
<b>Montana</b>		<b>2</b>	<b>2</b>
State Education Clause		2	2
<b>Nebraska</b>	<b>1</b>		<b>1</b>
State Education Clause	1		1
<b>New Hampshire</b>		<b>4</b>	<b>4</b>
Combination--State Equal Protection Clause and State Taxation Clause		1	1
State Education Clause		3	3
<b>New Jersey</b>		<b>21</b>	<b>21</b>
State Education Clause		21	21
<b>New York</b>	<b>1</b>	<b>1</b>	<b>2</b>
Combination--State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause	1		1
State Education Clause		1	1
<b>North Carolina</b>		<b>1</b>	<b>1</b>
Combination--State Education Clause and State Equal Protection Clause		1	1
<b>Ohio</b>	<b>1</b>	<b>1</b>	<b>2</b>
Combination--State Education Clause and State Equal Protection Clause	1		1
State Education Clause		1	1
<b>Oklahoma</b>	<b>2</b>		<b>2</b>
Combination--State Education Clause, Federal Equal Protection Clause, and State Equal Protection Clause	1		1
State Education Clause	1		1
<b>Oregon</b>	<b>2</b>		<b>2</b>
Combination--State Education Clause and State Equal Protection Clause	1		1
State Education Clause	1		1
<b>South Carolina</b>		<b>1</b>	<b>1</b>
State Education Clause		1	1
<b>Tennessee</b>		<b>1</b>	<b>1</b>
State Equal Protection Clause		1	1
<b>Texas</b>	<b>3</b>	<b>3</b>	<b>6</b>
Federal Equal Protection Clause	1		1
State Education Clause	1	2	3

Taxation Clause of State Constitution	1	1	2
<b>Vermont</b>		<b>1</b>	<b>1</b>
State Education Clause		1	1
<b>Washington</b>		<b>1</b>	<b>1</b>
State Equal Protection Clause		1	1
<b>West Virginia</b>		<b>1</b>	<b>1</b>
Combination--State Education Clause and State Equal Protection Clause		1	1
<b>Wisconsin</b>	<b>1</b>	<b>1</b>	<b>2</b>
Combination--State Education Clause and State Equal Protection Clause	1		1
Combination--State Equal Protection Clause and State Taxation Clause		1	1
<b>Wyoming</b>		<b>3</b>	<b>3</b>
Combination--State Education Clause and State Equal Protection Clause		1	1
State Education Clause		1	1
State Equal Protection Clause		1	1
<b>Grand Total</b>	<b>21</b>	<b>55</b>	<b>76</b>

Of the thirty-two states with school finance litigation that has been decided at the high court level, fifteen of them have only one case. Having one case on record from the high court can mean multiple things. The decision may have delineated clear expectations for school funding that did not leave much further room for interpretation or litigation, as is the case in Kentucky with *Rose v. Council for Better Education, Inc.* (790 S.W.2d 186), or the decision may indicate there may not be a clear constitutional set of guidelines for school finance; thus further cases may not have been pursued, as is the case with *School Administrative District No. 1 v. Commissioner* (659 A.2d 854) in Maine.

There are, however, a number of states with multiple cases at the high court level. Most notably is New Jersey with the series of *Abbott* cases in addition to *Robinson v. Cahill* (62 N.J. 473), putting the total listed cases for New Jersey at twenty-one, all of which were pro-school finance reform. Clearly, New Jersey is a state in which the likelihood of success in cases regarding school finance is high. The states with the next highest number of cases that were decided pro-school finance reform are New Hampshire with four cases decided in favor of school reform and none against, Wyoming and Connecticut with three cases each in favor of school finance reform and none against and four states-Arizona, Arkansas, California, and Montana-with two cases each decided in favor of school finance reform and none against. Texas is worth considering in this analysis; Texas has six cases, with three being decided in favor of school finance reform and three being decided against reform, based on the case being considered. The conclusion might be drawn that Texas is “lukewarm” to such cases; however, it is necessary to remember that there is a significant shadow on school finance reform cases in Texas with *San Antonio v.*

*Rodriguez* (411 US 1) coming from Texas and likely being the most impactful case in school finance reform litigation across the nation.

Only three states have more than one high court decision against school finance reform. The first is Texas as previously addressed; the others are Oklahoma and Illinois. In both states, those cases involved the State Education Clause either in isolation or in combination with other legal standards suggesting, that even in the most modern era of litigation, these states constitutions have been interpreted to be less than accommodating to school finance reform litigation.

**Research Question Five: Is there an emerging trend regarding school finance litigation?**

The issue of a potential recent trend in litigation is best answered affirmatively but with some level of reservation regarding the trend being emerging. The three cases decided within the past two years do not create a pattern that allows for any significant conclusion to be drawn regarding the final research question. However, a review of Table 9.0 indicates that since the year 2000, sixteen cases were decided affirmatively using the combination of the State Education Clause and Vertical Equity as Adequacy.

<b>Table 9.0 Legal and Financial Combinations Since 2000</b>												
<b>Legal and Financial Combinations</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>Grand Total</b>
<b>Combination--State Education Clause and State Equal Protection Clause</b>			1									1
<b>Combination--Horizontal Equity &amp; Pure Vertical Equity</b>			1									1
In Favor of Reform			1									1
<b>Combination--State Education Clause, State Equal Protection Clause, State Due Process Clause</b>				1								1
<b>Combination--Horizontal Equity, Pure Vertical Equity and Adequacy.</b>				1								1
In Favor of Reform				1								1
<b>Combination--State Equal Protection, State Education Clause, and State Taxation Clause</b>										1		1
<b>Horizontal Equity</b>										1		1
Against Finance Reform										1		1
<b>State Education Clause</b>	2	2	3	1	3	2	3	3	2	2	1	24
<b>Adequacy</b>		1				1	1	1		1	1	6
Against Finance Reform								1		1		2
In Favor of Reform		1				1	1				1	4
<b>Combination--Adequacy and Justiceability</b>								1				1
Against Finance Reform								1				1
<b>Horizontal Equity</b>			1									1
Against Finance Reform			1									1
<b>Vertical Equity as Adequacy</b>	2	1	2	1	3	1	2	1	2	1		16
In Favor of Reform	2	1	2	1	3	1	2	1	2	1		16
<b>Grand Total</b>	2	2	4	2	3	2	3	3	2	3	1	27

However, of those sixteen, fifteen of them were *Abbott* cases. Therefore, the best answer to the final research question is found with the next level of frequency over the past ten years which is the combination of the State Education Clause and Pure Adequacy.

## **Chapter Five—Implications for Future Research**

The purpose of any research study is to provide a meaningful interpretation of data that yields progress in a given field. This meta-analysis of the school finance litigation over the past thirty-nine years provides a historical context for such decisions in a categorized and disaggregated form with the purpose of contributing to the field of study for future litigation and analysis purposes.

This research allows for an extended consideration of how school finance litigation can be reviewed at a more specific level than just considering one component of the case such as the legal standard used, the point on a timeline where a case rests, or the type of decision made. The multi-faceted analysis of cases provides an additional point of consideration for future litigators as they develop school finance legal cases. Additionally, this type of analysis allows for educational historians to better understand the evolution of school finance as it has been impacted by the legal process.

While this dissertation provides one new set of answers, it also provides opportunity for future research to extend and continue the analysis in multiple ways. This analysis did not in any way weight cases as related to significance of impact regarding school finance reform. It is abundantly clear that some historical cases have had larger long-term impact than others; future research could include an analysis involving such a prioritization process of the cases.

Additionally, this meta-analysis of cases lends itself to further analysis in the area briefly touched upon in Table 8.0, a review of litigation by state and the impact on each specific states funding formula. Additionally, either of the suggested future areas for research could be

conducted or this research itself could be duplicated in a manner that is inclusive of lower court decisions.

Ultimately, the goal of all school finance litigation is to ensure a quality education for each student; understanding the history of school finance reform through research such as that presented here will help to propel an adequate and equitable education for all.



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